

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
FORM 10-Q**

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2023

or

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-40272

**OPAL FUELS INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**One North Lexington Avenue, Suite 1450**

**White Plains, New York**

(Address of principal executive offices)

**98-1578357**

(I.R.S. Employer Identification No.)

**10601**

(Zip Code)

**(914) 705-4000**

(Registrant's telephone number, including area code)

**Not Applicable**

(Former name, former address and former fiscal year, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock, par value \$0.0001 per share	OPAL	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of May 11, 2023, a total of 27,694,332 shares of Class A common stock, par value \$0.0001 per share, and 144,399,037 shares of Class D common stock, par value \$0.0001 per share were issued and outstanding.

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## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”) and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts contained in this Quarterly Report on Form 10-Q, including statements regarding our future results of operations or financial condition, business strategy and plans and objectives of management for future operations, are forward-looking statements. Words such as “estimates,” “projected,” “expects,” “estimated,” “anticipates,” “forecasts,” “plans,” “intends,” “believes,” “seeks,” “may,” “will,” “would,” “future,” “propose,” “target,” “goal,” “objective,” “outlook” and variations of these words or similar expressions (or the negative versions of such words or expressions) are intended to identify forward-looking statements. These forward-looking statements are not guarantees of future performance, conditions or results, and involve a number of known and unknown risks, uncertainties, assumptions and other important factors, many of which are outside our control, that could cause actual results or outcomes to differ materially from those discussed in the forward-looking statements. Important factors, among others, that may affect actual results or outcomes include:

Our ability to grow and manage growth profitably, maintain relationships with customers and suppliers and retain key employees;

- our success in retaining or recruiting, our principal officers, key employees or directors;
- intense competition and competitive pressures from other companies in the industry in which we operate;
- increased costs of, or delays in obtaining, key components or labor for the construction and completion of LFG and livestock waste projects that generate electricity and renewable natural gas (“RNG”) and compressed natural gas (“CNG”) and hydrogen dispensing stations;
- factors relating to our business, operations and financial performance, including market conditions and global and economic factors beyond our control;
- macroeconomic conditions related to the global COVID-19 pandemic;
- the reduction or elimination of government economic incentives to the renewable energy market;
- factors associated with companies, such as us, that are engaged in the production and integration of RNG, including (i) anticipated trends, growth rates and challenges in those businesses and in the markets in which they operate (ii) contractual arrangements with, and the cooperation of, landfill and livestock biogas conversion project site owners and operators and operators, on which we operate our LFG and livestock waste projects that generate electricity and (iii) RNG prices for Environmental Attributes (as defined below), LCFS credits and other incentives;
- the ability to identify, acquire, develop and operate renewable projects and fueling stations (“Fueling Stations”);
- our ability to issue equity or equity-linked securities or obtain or amend debt financing;
- the demand for renewable energy not being sustained;
- impacts of climate change, changing weather patterns and conditions and natural disasters; and
- the effect of legal, tax and regulatory changes.

The forward-looking statements contained in this Form 10-Q are based on current expectations and beliefs concerning future developments and their potential effects on us. There can be no assurance that future developments affecting us will be those that we have anticipated. These forward-looking statements involve a number of risks, uncertainties (some of which are beyond our control) or other assumptions that may cause actual results or performance to be materially different from those expressed or implied by these forward-looking statements. These risks and uncertainties include, but are not limited to, those factors described under the heading “Risk Factors” in this Form 10-Q. Should one or more of these risks or uncertainties materialize, or should any of our assumptions prove incorrect, actual results may vary in material respects from those projected in these forward-looking statements. We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws.

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## Part I - Financial Information

### Item 1. Financial Statements

**OPAL FUELS INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(In thousands of U.S. dollars, except per share data)

	March 31, 2023 (Unaudited)	December 31, 2022
<b>Assets</b>		
Current assets:		
Cash and cash equivalents (includes \$7,274 and \$12,506 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	\$ 33,264	\$ 40,394
Accounts receivable, net (includes \$252 and \$966 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	29,979	31,083
Accounts receivable, related party	4,046	12,421
Restricted cash - current (includes \$688 and \$6,971 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	688	32,402
Short term investments	36,989	64,976
Fuel tax credits receivable	2,494	4,144
Contract assets	8,545	9,771
Parts inventory	9,279	7,311
Environmental credits held for sale (includes \$29 and \$— at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	2,527	1,674
Prepaid expense and other current assets (includes \$251 and \$415 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	6,547	7,625
Derivative financial assets, current portion	449	182
Total current assets	<u>134,807</u>	<u>211,983</u>
Capital spares	3,455	3,443
Property, plant, and equipment, net (includes \$93,225 and \$73,140 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	336,299	297,323
Operating right-of-use assets	11,597	11,744
Investment in other entities	50,570	51,765
Note receivable - variable fee component	2,019	1,942
Derivative financial assets, non-current portion	1,057	954
Deferred financing costs	2,924	3,013
Other long-term assets	1,489	1,489
Intangible assets, net	2,007	2,167
Restricted cash - non-current (includes \$3,157 and \$2,923 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	5,870	4,425
Goodwill	54,608	54,608
Total assets	<u>\$ 606,702</u>	<u>\$ 644,856</u>
<b>Liabilities and Equity</b>		
Current liabilities:		
Accounts payable (includes \$10,430 and \$4,896 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	23,298	22,679
Accounts payable, related party (includes \$279 and \$433 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	839	1,346
Fuel tax credits payable	2,380	3,320
Accrued payroll	10,525	8,979
Accrued capital expenses (includes \$8,027 and \$7,821 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	15,424	11,922
Accrued expenses and other current liabilities (includes \$178 and \$646 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	8,374	9,573

Contract liabilities	8,518	8,013
Senior Secured Credit Facility - term loan, current portion, net of debt issuance costs	—	15,250
Senior Secured Credit Facility - working capital facility, current portion	—	7,500
OPAL Term Loan, current portion	27,732	27,732
Sunoma Loan, current portion (includes \$768 and \$380 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	768	380
Convertible Note Payable	29,091	28,528
Municipality Loan	31	76
Derivative financial liability, current portion	—	4,596
Operating lease liabilities - current portion	667	630
Other current liabilities	1,771	1,085
Asset retirement obligation, current portion	1,296	1,296
Total current liabilities	130,714	152,905
Asset retirement obligation, non-current portion	5,062	4,960
OPAL Term Loan	69,915	66,600
Sunoma Loan, net of debt issuance costs (includes \$21,337 and \$21,712 at March 31, 2023 and December 31, 2022, respectively, related to consolidated VIEs)	21,337	21,712
Operating lease liabilities - non-current portion	11,100	11,245
Earn out liabilities	4,480	8,790
Other long-term liabilities	740	825
Total liabilities	243,348	267,037
Commitments and contingencies		
Redeemable preferred non-controlling interests	140,905	138,142
Redeemable non-controlling interests	1,013,835	1,013,833
Stockholders' deficit		
Class A common stock, \$0.0001 par value, 340,000,000 shares authorized as of March 31, 2023; 29,330,115 and 29,477,766 shares, issued and outstanding at March 31, 2023 and December 31, 2022, respectively	3	3
Class B common stock, \$0.0001 par value, 160,000,000 shares authorized as of March 31, 2023; None issued and outstanding as of March 31, 2023 and December 31, 2022	—	—
Class C common stock, \$0.0001 par value, 160,000,000 shares authorized as of March 31, 2023; None issued and outstanding as of March 31, 2023 and December 31, 2022	—	—
Class D common stock, \$0.0001 par value, 160,000,000 shares authorized as of March 31, 2023; 144,399,037 and 144,399,037 shares issued and outstanding at March 31, 2023 and December 31, 2022	14	14
Additional paid-in capital	—	—
Accumulated deficit	(807,895)	(800,813)
Accumulated other comprehensive income	137	195
Class A common stock in treasury, at cost; 1,635,783 and 0 shares at March 31, 2023 and December 31, 2022, respectively	(11,614)	—
Total Stockholders' deficit attributable to the Company	(819,355)	(800,601)
Non-redeemable non-controlling interests	27,969	26,445
Total Stockholders' deficit	(791,386)	(774,156)
Total liabilities, Redeemable preferred non-controlling interests, Redeemable non-controlling interests and Stockholders' deficit	\$ 606,702	\$ 644,856

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**OPAL FUELS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(In thousands of U.S. dollars, except per unit data)  
(Unaudited)

	Three Months Ended March 31,	
	2023	2022
<b>Revenues:</b>		
RNG fuel (includes revenues from related party of \$4,715 and \$8,080 for the three months ended March 31, 2023 and 2022, respectively)	\$ 12,194	\$ 15,049
Fuel station services (includes revenues from related party of \$1,493 and \$4,816 for the three months ended March 31, 2023 and 2022, respectively)	20,828	24,874
Renewable Power (includes revenues from related party of \$1,527 and \$1,026 for the three months ended March 31, 2023 and 2022, respectively)	9,935	9,124
Total revenues	<u>42,957</u>	<u>49,047</u>
<b>Operating expenses:</b>		
Cost of sales - RNG fuel	7,523	7,714
Cost of sales - Fuel station services	20,292	19,663
Cost of sales - Renewable Power	8,378	8,408
Selling, general, and administrative	14,472	10,855
Depreciation, amortization, and accretion	3,567	3,396
Total expenses	<u>54,232</u>	<u>50,036</u>
Operating loss	<u>(11,275)</u>	<u>(989)</u>
<b>Other (expense) income:</b>		
Interest and financing expense, net	(641)	(3,057)
Change in fair value of derivative instruments, net	3,933	236
Other expense	(68)	—
Income (loss) from equity method investments	705	(657)
Loss before provision for income taxes	<u>(7,346)</u>	<u>(4,467)</u>
Provision for income taxes	—	—
Net loss	<u>(7,346)</u>	<u>(4,467)</u>
Net loss attributable to redeemable non-controlling interests	(8,233)	(4,942)
Net loss attributable to non-redeemable non-controlling interests	(297)	(242)
Paid-in-kind preferred dividends <sup>(1)</sup>	2,763	717
Net loss attributable to Class A common stockholders	<u>\$ (1,579)</u>	<u>\$ —</u>
Weighted average shares outstanding of Class A common stock:		
Basic	27,383,562	—
Diluted	27,383,562	—
Per share amounts:		
Basic <sup>(2)</sup>	\$ (0.06)	\$ —
Diluted <sup>(2)</sup>	\$ (0.06)	\$ —

<sup>(1)</sup> Paid-in-kind preferred dividend is allocated between redeemable non-controlling interests and Class A common stockholders basis their weighted average percentage of ownership. Please see Note.13 *Redeemable non-controlling interests, redeemable preferred non-controlling interests and Stockholders' deficit* for additional information.

<sup>(2)</sup> Income per share information has not been presented for the three months ended March 31, 2022 as it would not be meaningful to the users of these consolidated financial statements,

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**OPAL FUELS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
(In thousands of U.S. dollars)  
(Unaudited)

	<b>Three Months Ended March 31,</b>	
	<b>2023</b>	<b>2022</b>
Net loss	\$ (7,346)	\$ (4,467)
Other comprehensive loss:		
Net unrealized loss on cash flow hedges	(356)	—
Total comprehensive loss	(7,702)	(4,467)
Net loss attributable to Redeemable non-controlling interests	(5,915)	(4,942)
Other comprehensive loss attributable to Redeemable non-controlling interests	(299)	—
Comprehensive loss attributable to non-redeemable non-controlling interests	(297)	(242)
Paid-in-kind preferred dividends	445	717
Comprehensive loss attributable to Class A common stockholders	\$ (1,636)	\$ —

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.



**OPAL FUELS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN REDEEMABLE NON-CONTROLLING INTEREST, REDEEMABLE PREFERRED NON-CONTROLLING INTEREST**  
**AND STOCKHOLDERS' (DEFICIT) EQUITY**  
(In thousands of U.S. dollars, except per unit data)  
(Unaudited)

	Class A common stock		Class D common stock		Additional paid-in capital	Accumulated deficit	Other comprehensive income	Non-redeemable non-controlling interests	Class A common stock in treasury		Total Stockholders' Equity	Mezzanine Equity	
	Shares	Amount	Shares	Amount					Shares	Amount		Redeemable non-controlling interests	Redeemable non-controlling interests
<b>December 31, 2022</b>	29,477,766	\$ 3	144,399,037	\$ 14	\$ —	\$ (800,813)	\$ 195	\$ 26,445	\$ —	\$ —	\$ (774,156)	\$ 138,142	\$ 1,013,833
Net loss	—	—	—	—	—	(1,134)	—	(297)	—	—	(1,431)	—	(5,915)
Other comprehensive loss	—	—	—	—	—	—	(58)	—	—	—	(58)	—	(299)
Proceeds from non-redeemable non-controlling interest	—	—	—	—	1,722	—	—	1,821	—	—	3,543	—	—
Issuance of Class A common stock on warrant exchange	49,633	—	—	—	338	—	—	—	—	—	338	—	—
Cancellation of fractional shares on warrant exchange	(26)	—	—	—	—	—	—	—	—	—	—	—	—
Exercise of put option forward purchase contract - Meteora	—	—	—	—	—	—	—	—	(1,635,783)	(11,614)	(11,614)	—	—
Forfeiture of Class A common stock	(197,258)	—	—	—	—	—	—	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	157	—	—	—	—	—	157	—	814
Change in redemption value of Redeemable non-controlling interests	—	—	—	—	(2,217)	(5,503)	—	—	—	—	(7,720)	—	7,720
Paid-in-kind preferred dividend	—	—	—	—	—	(445)	—	—	—	—	(445)	2,763	(2,318)
<b>March 31, 2023</b>	<u>29,330,115</u>	<u>\$ 3</u>	<u>144,399,037</u>	<u>\$ 14</u>	<u>\$ —</u>	<u>\$ (807,895)</u>	<u>\$ 137</u>	<u>\$ 27,969</u>	<u>(1,635,783)</u>	<u>\$(11,614)</u>	<u>\$ (791,386)</u>	<u>\$ 140,905</u>	<u>\$ 1,013,835</u>

	Class A common stock		Class D common stock				Mezzanine Equity		Total Stockholders' Equity	Redeemable preferred non-controlling interests	Redeemable non-controlling interests
	Shares	Amount	Shares	Amount	Additional paid-in capital	Retained earnings	Non-redeemable non-controlling interests				
<b>December 31, 2021</b>	—	\$ —	144,399,037	\$ 14	\$ —	\$ —	\$ 1,188	\$ 1,202	\$ 30,210	\$ 63,545	
Net loss	—	—	—	—	—	—	(242)	(242)	—	(4,225)	
Contributions from non-redeemable non-controlling interest	—	—	—	—	—	—	5,738	5,738	—	(95)	
Amortization on payment to acquire non-redeemable noncontrolling interest	—	—	—	—	—	—	—	—	—	(91)	
Contributions from redeemable preferred non-controlling interests	—	—	—	—	—	—	—	—	25,000	(267)	
Paid-in-kind preferred dividend	—	—	—	—	—	—	—	—	717	(717)	
Stock-based compensation	—	—	—	—	—	—	—	—	—	160	
<b>March 31, 2022</b>	—	\$ —	144,399,037	\$ 14	\$ —	\$ —	\$ 6,684	\$ 6,698	\$ 55,927	\$ 58,310	

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**OPAL FUELS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands of U.S. dollars)  
(Unaudited)

	Three Months Ended March 31,	
	2023	2022
<b>Cash flows from operating activities:</b>		
Net loss	\$ (7,346)	\$ (4,467)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Income from equity method investments	(705)	657
Provision for bad debts	492	—
Amortization of operating right-of-use assets	147	190
Depreciation and amortization	3,465	3,321
Amortization of deferred financing costs	450	438
Loss on warrant exchange	338	—
Accretion expense related to asset retirement obligation	102	75
Stock-based compensation	971	160
Paid-in-kind interest income	(78)	(222)
Change in fair value of Convertible Note Payable	563	1,020
Unrealized loss on derivative financial instruments	(4,855)	214
Changes in operating assets and liabilities, net of effects of businesses acquired:		
Accounts receivable	611	(3,739)
Accounts receivable, related party	8,375	—
Fuel tax credits receivable	1,649	—
Capital spares	(13)	(20)
Brown gas and parts inventory	(1,968)	(703)
Environmental credits held for sale	(853)	246
Prepaid expense and other current assets	1,078	275
Contract assets	1,227	(2,289)
Accounts payable	622	(4,716)
Accounts payable, related party	(507)	326
Fuel tax credits payable	(940)	—
Accrued payroll	1,547	(1,936)
Accrued expenses	(1,199)	2,450
Operating lease liabilities - current and non-current	(107)	(190)
Other current and non-current liabilities	601	125
Contract liabilities	504	(200)
Net cash provided by (used in) operating activities	4,171	(8,985)
<b>Cash flows from investing activities:</b>		
Purchase of property, plant, and equipment	(38,780)	(22,509)
Proceeds from short term investments	27,986	—
Distributions received from equity method investment	1,900	—
Net cash used in investing activities	(8,894)	(22,509)
<b>Cash flows from financing activities:</b>		
Proceeds from Sunoma loan	—	1,506
Proceeds from OPAL Term Loan	10,000	15,000
Cash paid for purchase of shares upon exercise of put option	(16,391)	—
Financing costs paid to other third parties	(100)	(1,858)
Repayment of Senior Secured Credit Facility	(22,750)	(1,219)
Repayment of OPAL Term Loan	(6,933)	(1,611)
Repayment of Municipality loan	(45)	(55)
Proceeds from sale of non-redeemable non-controlling interest	3,543	5,643
Proceeds from sale of non-controlling interest, related party	—	25,000
Net cash (used in) provided by financing activities	(32,676)	42,406

Net (decrease) increase in cash, restricted cash, and cash equivalents		(37,399)	10,912
Cash, restricted cash, and cash equivalents, beginning of period		77,221	42,054
Cash, restricted cash, and cash equivalents, end of period	\$	39,822	\$ 52,966
<b>Supplemental disclosure of cash flow information</b>			
Interest paid, net of \$1,808 and \$0 capitalized, respectively	\$	1,322	\$ 1,536
<b>Noncash investing and financing activities:</b>			
Paid-in-kind dividend on redeemable preferred non-controlling interests	\$	2,763	\$ 717
Accrual for purchase of Property, plant and equipment included in Accounts payable and Accrued capital expenses	\$	15,424	\$ 11,922
Right-of-use assets for finance leases as of January 1, 2022 included in Property, plant and equipment, net	\$	—	\$ 801
Lease liabilities for finance leases as of January 1, 2022 included in Accrued expenses and other current liabilities	\$	—	\$ 316
Lease liabilities for finance leases as of January 1, 2022 included in Other long-term liabilities	\$	—	\$ 485
Fair value of contingent consideration to redeem the non-controlling interest included in Other long-term liabilities	\$	—	\$ 91
Accrual for deferred financing costs included in Accrued expenses and other current liabilities	\$	—	\$ 2,326

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**OPAL FUELS INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**1. Organization and Description of Business**

OPAL Fuels Inc. (including its subsidiaries, the "Company", "OPAL," "we," "us" or "our") is a renewable energy company specializing in the capture and conversion of biogas for the (i) production of RNG for use as a vehicle fuel for heavy and medium-duty trucking fleets, (ii) generation of Renewable Power for sale to utilities, (iii) generation and sale of Environmental Attributes associated with RNG and Renewable Power, and (iv) sales of RNG as pipeline quality natural gas. OPAL also designs, develops, constructs, operates and services Fueling Stations for trucking fleets across the country that use natural gas to displace diesel as their transportation fuel. The biogas conversion projects ("Biogas Conversion Projects") currently use landfill gas and dairy manure as the source of the biogas. In addition, we have recently begun implementing design, development, and construction services for hydrogen Fueling Stations, and we are pursuing opportunities to diversify our sources of biogas to other waste streams.

As of January 1, 2023, we adopted ASU No. 2016-13, "Financial Instruments—Credit Losses" ("ASU 2016-13"). ASU 2016-13 amends the current financial instrument impairment model by requiring entities to use a forward-looking approach based on expected losses to estimate credit losses on certain types of financial instruments, including trade receivables. The adoption of the accounting standard did not have any material impact on our condensed consolidated financial statements.

The Company adopted ASC 842 "Leases" as of January 1, 2022 and evaluated all of its contracts and recorded right-of-use assets and corresponding lease liabilities on its consolidated balance sheet as of January 1, 2022. The Company adopted ASC 842 using the modified retrospective transition method of adoption. Under this method, the cumulative effect of applying the new lease standard is recorded with no restatement of any comparative prior periods presented. As provided by ASC 842, the Company elected to record the required cumulative effect adjustments to the opening balance sheet in the period of adoption rather than in the earliest comparative period presented. The Company retrospectively adjusted the financial statements as of and for the three months ended March 31, 2022 to reflect the adoption of ASC 842.

All amounts in these footnotes are presented in thousands of dollars except per share data.

**COVID-19 Impact**

In March 2020, the World Health Organization categorized the coronavirus disease 2019 ("COVID-19") as a pandemic and the President of the United States declared the COVID-19 outbreak as a national emergency. Management considered the impact of COVID-19 on the assumptions and estimates used and determined that, because the Company was deemed to be an essential business by the U.S. government and incurred neither layoffs of personnel nor a decline in its customer base or business operations. There was no material adverse impact on the Company's statement of position and result of operations as of, and for the three months ended March 31, 2023.

The future impact of the COVID-19 pandemic on the Company's business will depend on a number of factors, including, but not limited to, the duration and severity of the pandemic and its impact on our customers, all of which are uncertain and cannot be predicted.

**2. Summary of Significant Accounting Policies**

**Basis of Presentation and Principles of Consolidation**

These consolidated financial statements are prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP") and includes the accounts of the Company and all other entities in which the Company has a controlling financial interest: Fortistar Methane 3 LLC ("FM3"), Fortistar Methane 4 LLC, Beacon RNG LLC ("Beacon") Sunoma Holdings, LLC ("Sunoma"), Emerald RNG LLC ("Emerald"), Sapphire RNG LLC ("Sapphire"), New River LLC ("New River"), Reynolds NRG LLC ("Reynolds"), Central Valley LLC ("Central Valley"), Prince William RNG LLC ("Prince William"), Fortistar Contracting LLC, Fortistar RNG LLC, and OPAL Fuel station services LLC ("Fuel station services"). The Company's condensed consolidated financial statements include the assets and liabilities of

these subsidiaries. All intercompany transactions and balances have been eliminated in consolidation. The non-controlling interest attributable to the Company's variable interest entities ("VIE") are presented as a separate component from the Stockholders' deficit in the condensed consolidated balance sheets and as a non-redeemable non-controlling interests in the condensed consolidated statements of changes in redeemable non-controlling interests, redeemable preferred non-controlling interests and Stockholders' deficit.

The accompanying condensed consolidated financial statements reflect the activities of the Company, its subsidiaries, and its equity method investments for the three months ended March 31, 2023 and 2022. Investments in unconsolidated entities in which the Company can influence the operating or financial decisions are accounted for under the equity method. As of March 31, 2023 and December 31, 2022, the Company accounted for its ownership interests in Pine Bend RNG LLC ("Pine Bend"), Noble Road RNG LLC ("Noble Road") and GREP BTB Holdings LLC ("GREP") under the equity method. Please see Note 3. *Investment in Other Entities*, for additional information.

The accompanying unaudited condensed financial statements have been prepared in accordance with the instructions to Form 10-Q and Article 10 of Regulation S-X of the Securities and Exchange Commission ("SEC"). Certain information or footnote disclosures normally included in financial statements prepared in accordance with U.S. GAAP have been condensed or omitted, pursuant to the rules and regulations of the SEC for interim financial reporting. Accordingly, it does not include all the information and footnotes necessary for a complete presentation of financial position, results of operations, or cash flows. The information herein should be read in conjunction with the audited consolidated financial statements and notes thereto included in the Company's 2022 Annual Report on Form 10-K, which was filed with SEC on March 30, 2023. In the opinion of management, the accompanying unaudited condensed financial statements include all adjustments, consisting of a normal recurring nature, which are necessary for a fair statement of the financial position, operating results, and cash flows for the periods presented.

#### *Use of estimates*

The preparation of condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The significant estimates and assumptions of the Company include the residual value of the useful lives of our property, plant and equipment, the fair value of stock-based compensation, asset retirement obligations, the estimated losses on our trade receivables, percentage completion for revenue recognition, incremental borrowing rate for calculating the right-of-use assets and lease liabilities, the fair value of the Convertible Note Payable (as defined below), the impairment assessment of goodwill, and the fair value of derivative instruments. Actual results could differ from those estimates.

The results of operations for the interim periods presented are not necessarily indicative of the results that may be expected for the entire year.

#### **Accounting Pronouncements**

In June 2016, the FASB issued ASU 2016-13, Financial Instruments — Credit Losses, with the objective of providing financial statement users information about the credit risk inherent in an entity's financial statements as well as to explain management's estimate of expected credit losses and the changes in the allowance for such losses. The accounting standard amends the current financial instrument impairment model by requiring entities to use a forward-looking approach based on expected losses to estimate credit losses on certain types of financial instruments, including trade receivables. Under the new guidance, an entity recognizes as an allowance its estimate of lifetime expected credit losses will result in more timely recognition of such losses. The Company adopted the accounting standard using the prospective transition approach as of January 1, 2023. The cumulative effect upon adoption was not material to our condensed consolidated financial statements.

The adoption of ASC 326 primarily impacted our trade receivables and the Note receivable recorded on our condensed consolidated balance sheet as of March 31, 2023. Upon adoption of ASC 326, the Company assessed collectability by reviewing accounts receivable on a collective basis where similar characteristics exist and on an individual basis when we identify specific customers with known disputes or collectability issues. In determining the amount of the allowance for credit losses, the Company considered historical collectability based on past due status and made judgments

about the creditworthiness of customers based on ongoing credit evaluations. The Company also considered customer-specific information, current market conditions and reasonable and supportable forecasts of future economic conditions to inform adjustments to historical loss data. The carrying value of the Note receivable on the condensed consolidated balance sheet as of March 31, 2023 is based on discounted expected cash flows model which are adjusted on a quarterly basis. Therefore, the Company determined that the credit risk component is included in the carrying value at each reporting period. The adoption of ASC 326 did not have any material impact on our condensed consolidated financial statements.

In March 2023, the FASB issued Accounting Standards Update No. 2016-02, Leases (Topic 842). The Update requires the entities to classify and account for a leasing arrangement between entities under common control on the same basis as an arrangement with an unrelated party. The Update also requires leasehold improvements associated with common control leases be amortized by the lessee over the useful life of the leasehold improvements to the common control group (regardless of the lease term) as long as the lessee controls the use of the underlying asset and account for as a transfer between entities under common control through an adjustment to equity if and when the lessee no longer controls the use of the underlying asset. The amendments in this Update are effective for fiscal years beginning after December 15, 2023 including interim fiscal periods within those fiscal years. The Company is currently evaluating the impact of the adoption of this Update on its condensed consolidated financial statements.

### Emerging Growth Company Status

We are an emerging growth company as defined in the JOBS Act. The JOBS Act provides emerging growth companies with certain exemptions from public company reporting requirements for up to five fiscal years while a company remains an emerging growth company. As part of these exemptions, we need only provide two fiscal years of audited financial statements instead of three, we have reduced disclosure obligations such as for executive compensation, and we are not required to comply with auditor attestation requirements from Section 404(b) of the Sarbanes-Oxley Act regarding our internal control over financial reporting. Additionally, the JOBS Act has allowed us the option to delay adoption of new or revised financial accounting standards until private companies are required to comply with new or revised financial accounting standards.

### Cash, Cash Equivalents, and Restricted Cash

Cash, cash equivalents, and restricted cash consisted of the following as of March 31, 2023 and December 31, 2022:

	March 31, 2023	December 31, 2022
Current assets:		
Cash and cash equivalents	\$ 33,264	\$ 40,394
Restricted cash - current <sup>(1)</sup>	688	32,402
Long-term assets:		
Restricted cash held as collateral <sup>(2)</sup>	5,870	4,425
Total cash, cash equivalents, and restricted cash	<u>\$ 39,822</u>	<u>\$ 77,221</u>

<sup>(1)</sup> Restricted cash - current as of March 31, 2023 primarily relates to interest reserve on Sunoma Loan. Restricted cash - current as of December 31, 2022 primarily consists of (i) \$16,849 held in escrow to secure the Company's purchase obligations under the forward purchase agreement with Meteora (ii) \$5,845 equity contribution to a joint venture in connection with the closing of OPAL Term Loan II (iii) \$1,127 relates to interest reserve on Sunoma Loan and (iv) \$8,581 held in a restricted account for funding one of our RNG projects.

<sup>(2)</sup> Restricted cash held as collateral represents the collateral requirements on our debt facilities.

### Short term investments

The Company considers highly liquid investments such as time deposits and certificates of deposit with an original maturity greater than three months at the time of purchase to be short term investments. The Short term investments of \$36,989 and 64,976 as of March 31, 2023 and December 31, 2022, respectively, consists of cash invested in money market accounts with maturities ranging between 1 and 12 months as of the reporting date. The amounts in these money market accounts are liquid and available for general use.

Our short term investments are generally invested in commercial paper issued by highly credit worthy counter parties and government backed treasury bills. Investments are generally not FDIC insured and we take counter party risk on these investments.

#### **Earnout Liabilities**

In connection with the Business Combination and pursuant to a sponsor letter agreement, the Sponsor agreed to subject 10% of its Class A common stock (received as a result of the conversion of its ArcLight Class B ordinary shares immediately prior to the closing) to vesting and forfeiture conditions relating to VWAP targets for the Company's Class A common stock sustained over a period of 60 months following the closing. OPAL Fuels equity holders are eligible to receive an aggregate of 10,000,000 shares of Class B and Class D common stock upon the Company achieving each earn-out event during the earn-out period. The Earnout Awards were recognized at fair value on the closing date and classified as a liability which is remeasured at each balance sheet date and any change in fair value is recognized in the Company's condensed consolidated statement of operations as part of change in fair value of derivative instruments, net. For the three months ended March 31, 2023, the Company recorded a gain of \$4,310 in its condensed consolidated statement of operations. As of March 31, 2023 and December 31, 2022, the Company recorded \$4,480 and \$8,790, respectively, on its condensed consolidated balance sheets.

#### **Put option on forward purchase agreement**

Prior to the closing of Business Combination, the Company entered into a forward purchase agreement with Meteora Capital Partners ("Meteora") pursuant to which Meteora agreed to purchase 2,000,000 shares of Class A common stock from shareholders who had previously tendered such shares for redemption but agreed to reverse their redemption and sell such shares to Meteora at the redemption price. The Company placed \$20,040 in escrow at the closing of the Business Combination to secure its purchase obligation to repurchase these 2,000,000 shares at Meteora's option for a price of \$10.02 per share on the date that is six months after closing of the Business Combination. The put option written to Meteora on 2,000,000 shares of Class A common stock is recorded as a liability under Topic 480 *Distinguishing Liabilities from Equity* with the change in the fair market value recognized in the statement of operations as part of change in fair value of derivative instruments, net.

On January 23, 2023, pursuant to the terms of the forward purchase agreement, Meteora exercised its option to sell back 1,635,783 shares to the Company. \$16,391 of the funds held in escrow which were previously recorded as part of Restricted Cash - current on its consolidated balance sheet as of December 31, 2022 were released to Meteora excluding interest accrued. In connection with the above, the Sponsor forfeited 197,258 shares of Class A common stock on January 26, 2023 pursuant to the terms of certain letter agreement dated July 21, 2022. The Company treated the repurchased shares as treasury shares and recorded \$11,614 representing the fair value of those shares at the closing share price of \$7.01 as an adjustment to Stockholders' deficit. Additionally, the Company recorded \$4,777 as an offset to the Derivative financial liability - current in its condensed consolidated balance sheet as of March 31, 2023.

#### **Redeemable non-controlling interests**

Redeemable non-controlling interests represent the portion of OPAL Fuels that the Company controls and consolidates but does not own. The Redeemable non-controlling interest was created as a result of the Business Combination and represents 144,399,037 Class B Units issued by OPAL Fuels to the prior investors. The Company allocates net income or loss attributable to Redeemable non-controlling interest based on weighted average ownership interest during the period. The net income or loss attributable to Redeemable non-controlling interests is reflected in the condensed consolidated statement of operations.

At each balance sheet date, the mezzanine equity classified Redeemable non-controlling interests is adjusted up to their maximum redemption value if necessary, with an offset in Stockholders' equity. As of March 31, 2023, the Company recorded an adjustment of \$1,013,835.

#### **Net loss per share**

The Company's basic earnings per share of Class A common stock is computed based on the average number of outstanding shares of Class A common stock for the period.



The Company's diluted earnings per share includes effects of the Company's outstanding equity awards under the 2022 Plan (as defined elsewhere in these financial statements), Redeemable non-controlling interests (OPAL Fuels Class B units), redeemable preferred non-controlling interests, Sponsor Earnout Awards and OPAL Earnout Awards.

#### Accounts Receivable, Net

The Company's allowance for doubtful accounts was \$84 and \$0 at March 31, 2023 and December 31, 2022.

#### Asset Retirement Obligation

The Company accounts for asset retirement obligations in accordance with FASB ASC 410, *Asset Retirement and Environmental Obligations*, which requires entities to record the fair value of a liability for an asset retirement obligation in the period in which it is incurred and when a reasonable estimate of fair value can be made. The fair value of the estimated asset retirement obligations is recorded as a long-term liability, with a corresponding increase in the carrying amount of the related asset. The discounted asset retirement costs capitalized amount are accreted over the life of the sublease or site lease agreement. Asset retirement obligations are deemed Level 3 fair value measurements as the inputs used to measure the fair value are unobservable. The Company estimates the fair value of asset retirement obligations by calculating the estimated present value of the cost to retire the asset. This estimate requires assumptions and judgments regarding the existence of liabilities, the amount and timing of cash outflows required to settle the liability, inflation factors, credit adjusted discount rates, and consideration of changes in legal, regulatory, environmental, and political environments. In addition, the Company determines the Level 3 fair value measurements based on historical information and current market conditions.

As of March 31, 2023 and December 31, 2022, the Company estimated the value of its total asset retirement obligations to be \$6,358 and \$6,256, respectively.

The changes in the asset retirement obligations were as follows as of March 31, 2023:

	<b>March 31,</b>
	<b>2023</b>
Balance, December 31, 2022 - Current and non-current	\$ 6,256
Accretion expense	102
<b>Total asset retirement obligation</b>	<b>6,358</b>
Less: current portion	(1,296)
<b>Total asset retirement obligation, net of current portion</b>	<b>\$ 5,062</b>

#### Revenue Recognition

The Company's revenue arrangements generally consist of a single performance obligation to transfer goods or services. Revenue from the sale of RNG, CNG and, electricity is recognized by applying the "right to invoice" practical expedient within the accounting guidance for *Revenue from Contracts with Customers* that allows for the recognition of revenue from performance obligations in the amount of consideration to which there is a right to invoice the customer and when the amount for which there is a right to invoice corresponds directly to the value transferred to the customer. For some public CNG Fueling Stations where there is no contract with the customer, the Company recognizes revenue at the point in time that the customer takes control of the fuel.

The Company also performs maintenance services throughout the country. Maintenance consists of monitoring equipment and replacing parts as necessary to ensure optimum performance. Revenue from service agreements is recognized over time as services are provided. Capacity payments fluctuate based on peak times of the year and revenues from capacity payments are recognized monthly as earned.

The Company has agreements with two natural gas producers ("Producers") to transport Producers' natural gas using the Company's RNG gathering system. The performance obligation is the delivery of Producers' natural gas to an agreed delivery point on an interstate gas pipeline. The quantity of natural gas transported for the Producers is measured at a certain specified meter. The price is fixed at contracted rates and the Producers pay approximately 30 days after month-end. As such, transportation sales are recognized over time, using the output method to measure progress.

The Company provides credit monetization services to customers that own renewable gas generation facilities. The Company recognizes revenue from these services as the credits are minted on behalf of the customer. The Company receives non-cash consideration in the form of RINs or LCFSs for providing these services and recognizes the RINs or LCFSs received as a current asset based on their estimated fair value at contract inception. When the Company receives RINs or LCFSs as payment for providing credit monetization services, it records the non-cash consideration in inventory based on the fair value of RINs or LCFSs at contract commencement.

On November 29, 2021, the Company entered into a purchase and sale agreement with NextEra for the Environmental Attributes generated by the RNG Fuels business. Under this agreement, the Company plans to sell a minimum of 90% of the Environmental Attributes generated and will receive net proceeds based on the agreed upon price less a specified discount. A specified volume of Environmental Attributes sold per quarter will incur a fee per Environmental Attribute in addition to the specified discount. The agreement was effective beginning January 1, 2022. For the three months ended March 31, 2023 and 2022, the Company earned net revenues after discount and fees of \$6,208 and \$12,896, respectively under this contract which was recorded as part of Revenues - RNG fuel and Fuel Station Services.

Sales of Environmental Attributes such as RINs, RECs, and LCFS are generally recorded as revenue when the certificates related to them are delivered to a buyer. However, the Company may recognize revenue from the sale of such Environmental Attributes at the time of the related RNG or renewable power sales when the contract provides that title to the Environmental Attributes transfers at the time of production, the Company's price to the buyer is fixed, and collection of the sales proceeds occurs within 60 days after generation of the renewable power.

Management operating fees are earned for the operation, maintenance, and repair of the gas collection system of a landfill site. Revenue is calculated on the volume of per million British thermal units of LFG collected and the megawatt hours ("MWhs") produced at that site. This revenue is recognized when LFG is collected and renewable power is delivered.

The Company has various fixed price contracts for the construction of Fueling Stations for customers. Revenues from these contracts, including change orders, are recognized over time, with progress measured by the percentage of costs incurred to date compared to estimated total costs for each contract. This method is used as management considers costs incurred to be the best available measure of progress on these contracts. Costs capitalized to fulfill certain contracts were not material in any of the periods presented.

The Company owns Fueling Stations for use by customers under fuel sale agreements. The Company bills these customers at an agreed upon price for each gallon sold and recognizes revenue based on the amounts invoiced in accordance with the "right to invoice" practical expedient. For some public stations where there is no contract with the customer, the Company recognizes revenue at the point-in-time that the customer takes control of the fuel.

The Company from time-to-time enters into fuel purchase agreements with customers whereby the Company is contracted to design and build a Fueling Station on the customer's property in exchange for the Company providing CNG/RNG to the customer for a determined number of years. In accordance with the standards of ASC 840, *Leases*, the Company has concluded these agreements meet the criteria for a lease and are classified as operating leases. Typically, these agreements do not require any minimum consumption amounts and, therefore, no minimum payments. Upon adoption of ASC 842, the Company adopted the practical expedient not to reassess the classification. For additional information on lease revenues earned, please see Note 8. *Leases*.

#### **Disaggregation of Revenue**

The following table shows the disaggregation of revenue according to product line:

	Three Months Ended March 31,	
	2023	2022
Renewable power sales	\$ 9,604	\$ 7,483
Third party construction	7,154	9,870
Service	4,904	4,392
Brown gas sales	7,530	4,516
Environmental credits	12,677	20,577
Parts sales	187	486
Operating agreements	—	585
Total revenue from contracts with customers	42,056	47,909
Lease revenue	901	1,138
Total revenue	\$ 42,957	\$ 49,047

For the three months ended March 31, 2023 and 2022, 16.6% and 20.1%, respectively of revenue was recognized over time, and the remainder was for products and services transferred at a point in time.

#### Other expense

The following table shows the items consisting of items recorded as Other income:

	Three Months Ended March 31,	
	2023	2022
Loss on warrant exchange	\$ 338	\$ —
Gain on transfer of non-financial asset in exchange for services received <sup>(1)</sup>	(270)	—
Other expense	\$ 68	\$ —

(1) Represents the fair value of RINs transferred as consideration for services received.

#### Contract Balances

The following table provides information about receivables, contract assets, and contract liabilities from contracts with customers:

	March 31, 2023	December 31, 2022
<b>Accounts receivable, net</b>	\$ 29,979	\$ 31,083
<b>Contract assets:</b>		
Cost and estimated earnings in excess of billings	\$ 5,977	\$ 7,027
Accounts receivable retainage, net	2,568	2,744
Contract assets total	\$ 8,545	\$ 9,771
<b>Contract liabilities:</b>		
Billings in excess of costs and estimated earnings	\$ 8,518	\$ 8,013
Contract liabilities total	\$ 8,518	\$ 8,013

During the three months ended March 31, 2023, the Company recognized revenue of \$8,013 that was included in "Contract liabilities" at December 31, 2022. During the three months ended March 31, 2022, the Company recognized revenue of \$9,785 that was included in "Contract liabilities" at December 31, 2021.

### **Backlog**

The Company's remaining performance obligations ("backlog") represent the unrecognized revenue value of its contract commitments. The Company's backlog may significantly vary each reporting period based on the timing of major new contract commitments. At March 31, 2023, the Company had a backlog of \$59,511 which is anticipated to be recognized as revenue in the next 12 months.

### **Income Taxes**

As a result of the Business Combination, the Company is the sole managing member of OPAL Fuels. OPAL Fuels is a limited liability company that is treated as a partnership for U.S. federal income tax purposes and for most applicable state and local income taxes. Any taxable income or loss generated by OPAL Fuels is passed through to and included in the taxable income or loss of its members, including the Company, on a pro-rata basis, subject to applicable tax regulations.

The Company accounts for income taxes in accordance with ASC Topic 740, Accounting for Income Taxes ("ASC Topic 740"), which requires the recognition of tax benefits or expenses on temporary differences between the financial reporting and tax bases of its assets and liabilities by applying the enacted tax rates in effect for the year in which the differences are expected to reverse. Such net tax effects on temporary differences are reflected on the Company's condensed consolidated balance sheets as deferred tax assets and liabilities. Deferred tax assets are reduced by a valuation allowance when the Company believes that it is more-likely-than-not that some portion or all of the deferred tax assets will not be realized. The Company calculates the interim tax provision in accordance with the provisions of ASC Subtopic 740-270, Income Taxes; Interim Reporting. For interim periods, the Company estimates the annual effective income tax rate and applies the estimated rate to the year-to-date income or loss before income taxes.

### **Significant Customers, Vendors and Concentration of Credit Risk**

For the three months ended March 31, 2023, three customers accounted for 44% of the revenue. For the three months ended March 31, 2022, three customers accounted for 50% of the revenue. At March 31, 2023, three customers accounted for 37% of accounts receivable. At December 31, 2022, two customers accounted for 44% of accounts receivable.

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash and cash equivalents, and trade receivables. The Company places its cash with high credit quality financial institutions located in the United States of America. The Company performs ongoing credit evaluations of its customers.

As of March 31, 2023, one vendor accounted for 54% of the accounts payable. As of December 31, 2022, one vendor accounted for 19% of the accounts payable.

### **3. Investment in Other Entities**

The Company uses the equity method to account for investments in affiliates that it does not control, but in which it has the ability to exercise significant influence over operating and financial policies. The Company's investments in these nonconsolidated affiliates are reflected in the Company's condensed consolidated balance sheets under the equity method, and the Company's proportionate net (loss) income, if any, is included in the Company's condensed consolidated statements of operations as (loss) income from equity method investments.

The following table shows the movement of Investment in Other Entities:

	Pine Bend	Noble Road	GREP	Total
Percentage of ownership	50 %	50 %	20 %	
Balance at December 31, 2022	\$ 22,518	\$ 25,165	\$ 4,082	\$ 51,765
Net income from equity method investment	194	714	(203)	705
Distributions from return of investment in equity method investment	—	(1,900)	—	(1,900)
Balance at March 31, 2023	\$ 22,712	\$ 23,979	\$ 3,879	\$ 50,570

#### Note receivable

In August 2021, the Company acquired 100% ownership interest in Reynolds which held a note receivable of \$10,450 to Biotown. The Note receivable had a maturity date of July 15, 2027 and carried an interest rate of 12.5% of which 8% is payable in cash on a quarterly basis from the inception of the loan and 4.5% payment-in-kind interest adding to the outstanding debt balance until the facility becomes operational.

On July 15, 2022, Biotown repaid the total amount outstanding under the Note receivable including paid-in-kind interest and prepayment penalty.

The Note receivable also entitles Reynolds to receive 4.25% of any revenue-based distributions made up to a maximum of \$4,500 over the term of the debt. The Company recorded the fair value of the Note receivable — variable fee component of \$1,538 as an allocation of the initial investment balance of \$10,450 and recorded payment-in-kind interest income of \$78 and \$222 as a reduction to interest and financing expense, net in the condensed consolidated statement of operations for the three months ended March 31, 2023 and 2022, respectively.

The Note receivable - variable fee component of \$2,019 and \$1,942 is recorded as a long-term asset on its condensed consolidated balance sheets as of March 31, 2023 and December 31, 2022, respectively.

The following table summarizes the net income from equity method investments:

	Three Months Ended March 31,	
	2023	2022
Revenue	\$ 7,539	\$ 296
Gross profit	1,651	(991)
Net income	(213)	(1,177)
Net income from equity method investments	\$ 705	\$ (657)

#### 4. Property, Plant, and Equipment, Net

Property, plant, and equipment, net, consisted of the following as of March 31, 2023 and December 31, 2022:

	March 31, 2023	December 31, 2022
Plant and equipment	\$ 203,587	\$ 201,655
CNG/RNG fueling stations	39,472	34,567
Construction in progress	184,849	152,105
Buildings	2,585	2,585
Land	1,303	1,303
Service equipment	2,028	1,888
Leasehold improvements	815	815
Vehicles	255	313
Office furniture and equipment	307	307
Computer software	277	277
Vehicles - finance leases	1,135	1,236
Other	504	487
	<u>437,117</u>	<u>397,538</u>
Less: accumulated depreciation	<u>(100,818)</u>	<u>(100,215)</u>
Property, plant, and equipment, net	<u>\$ 336,299</u>	<u>\$ 297,323</u>

As of March 31, 2023, there has been an increase in property, plant and equipment as a result of an increase in the construction of RNG generation facilities including, but not limited to Emerald, Sapphire Central Valley RNG projects and RNG dispensing facilities. The majority of these facilities, for which costs are in construction in progress as of March 31, 2023, are expected to be operational during the fourth quarter of 2023 and early 2024.

Depreciation expense on property, plant, and equipment for the three months ended March 31, 2023 and March 31, 2022 was \$3,305 and \$3,040, respectively.

#### 5. Intangible Assets, Net

Intangible assets, net, consisted of the following at March 31, 2023 and December 31, 2022:

	March 31, 2023			Weighted Average Amortization Period (Years)
	Cost	Accumulated Amortization	Intangible Assets, Net	
Power purchase agreements	\$ 8,999	\$ (7,611)	\$ 1,388	18.1
Transmission/distribution interconnection	1,600	(995)	605	15.1
CNG sales contract	807	(807)	—	10.0
Intellectual property	43	(29)	14	5.0
Total intangible assets	<u>\$ 11,449</u>	<u>\$ (9,442)</u>	<u>\$ 2,007</u>	

December 31, 2022

	Cost	Accumulated Amortization	Intangible Assets, Net	Weighted Average Amortization Period (years)
Power purchase agreements	\$ 8,999	\$ (7,488)	\$ 1,511	18.1
Transmission/distribution interconnection	1,600	(971)	629	15.1
CNG sales contract	807	(799)	8	10.0
Intellectual property	43	(24)	19	5.0
<b>Total intangible assets</b>	<b>\$ 11,449</b>	<b>\$ (9,282)</b>	<b>\$ 2,167</b>	

The transmission/distribution interconnection represents an interconnector for one of the Company's LFG recovery facilities. The interconnection construction was initially funded by a municipality. The Company is scheduled to repay the costs of this construction through April 1, 2023. The remaining liability of \$31 under the Municipality loan is shown as part of current liabilities on its condensed consolidated balance sheet as of March 31, 2023. Please see Note 7. *Borrowings*, for additional information.

Amortization expense for the three months ended March 31, 2023 and 2022 was \$160 and \$116, respectively. At March 31, 2023, estimated future amortization expense for intangible assets is as follows:

Nine months ended December 31, 2023	\$ 388
Fiscal year:	
2024	267
2025	267
2026	239
2027	238
Thereafter	608
	<u>\$ 2,007</u>

## 6. Goodwill

The following table summarizes the changes in goodwill, if any, by reporting segment from the beginning of the period to the end of the period:

	RNG Fuel	Fuel Station Services	Total
<b>Balance at December 31, 2022</b>	<b>\$ 51,155</b>	<b>\$ 3,453</b>	<b>\$ 54,608</b>
<b>Balance at March 31, 2023</b>	<b>\$ 51,155</b>	<b>\$ 3,453</b>	<b>\$ 54,608</b>

## 7. Borrowings

The following table summarizes the borrowings under the various debt facilities as of March 31, 2023 and December 31, 2022:

	March 31, 2023	December 31, 2022
Senior Secured Credit Facility, term loan	\$ —	\$ 15,250
Less: unamortized debt issuance costs	—	—
Less: current portion	—	(15,250)
Senior Secured Credit Facility, term loan, net of debt issuance costs	—	—
Senior Secured Credit Facility, working capital facility	—	7,500
Less: current portion	—	(7,500)
Senior Secured Credit Facility, working capital facility	—	—
OPAL Term Loan	99,157	96,090
Less: unamortized debt issuance costs	(1,510)	(1,758)
Less: current portion	(27,732)	(27,732)
OPAL Term Loan, net of debt issuance costs	69,915	66,600
Sunoma Loan	23,000	23,000
Less: unamortized debt issuance costs	(895)	(908)
Less: current portion	(768)	(380)
Sunoma Loan, net of debt issuance costs	21,337	21,712
Convertible Note Payable	29,091	28,528
Less: current portion	(29,091)	(28,528)
Convertible Note Payable	—	—
Municipality Loan	31	76
Less: current portion	(31)	(76)
Municipality Loan	—	—
Non-current borrowings total	\$ 91,252	\$ 88,312

As of March 31, 2023, principal maturities of debt are expected as follows, excluding any subsequent refinancing transactions and any undrawn debt facilities as of the date of the condensed consolidated balance sheets:

	OPAL Term Loan	Sunoma Loan	Convertible Note Payable <sup>(1)</sup>	Municipality Loan	Total
Nine months ending December 31, 2023	\$ 20,799	\$ 380	\$ 29,091	\$ 31	\$ 50,301
Fiscal year:					
2024	27,732	1,608	—	—	29,340
2025	50,626	1,743	—	—	52,369
2026	—	1,883	—	—	1,883
2027	—	17,386	—	—	17,386
	\$ 99,157	\$ 23,000	\$ 29,091	\$ 31	\$ 151,279

<sup>(1)</sup> The Convertible Note Payable is redeemable on demand at the option of the Company or the lender.

#### Senior Secured Credit Facility

On September 21, 2015, FM3, an indirect wholly-owned subsidiary of the Company, entered into a senior secured credit facility (the "Senior Secured Credit Facility") as a borrower and a syndicate of lenders, which provides for an aggregate principal amount of \$150,000, consisting of (i) a term loan of \$125,000, (ii) a working capital letter of credit facility of up to \$19,000 and (iii) a debt service reserve and liquidity facility of up to \$6,000. The Company paid \$14,300 to the lenders in connection with the transaction. As of March 31, 2023 and December 31, 2022, \$0 and \$15,250, respectively, was outstanding under the Senior Secured Credit Facility- term loan.



The borrowings under the Senior Secured Credit Facility bear an interest rate of a fixed margin plus the secured overnight financing rate ("SOFR") for the relevant interest period. The fixed margin is 2.75% for the first four years, then 3.0% until October 8, 2021, and 3.25% thereafter.

On December 19, 2022, FM3 entered into an Omnibus and Consent Agreement (the "FM3 Amendment"). The FM3 Amendment amended the credit agreement, among other things, to (a) extend the maturity date of the obligations thereunder from December 20, 2022 to March 20, 2023, (b) permit OPAL Fuels to purchase the rights and obligations of certain exiting lenders at par, (c) prepay a portion of the outstanding loans made by the remaining lenders and (d) permit the release of certain project company subsidiaries of FM3 from the collateral securing the obligations under the credit agreement. Upon consummation of the FM3 Amendment, the Company repaid \$54,929 of the outstanding term loan. On March 20, 2023, the Company repaid in full the remaining outstanding loan under this facility.

#### *Patronage dividends*

The Company is eligible to receive annual patronage dividends from one of its lenders, Cobank ACB under a profit sharing program made available to the borrowers. For the three months ended March 31, 2023 and 2022, the Company received cash dividends of \$125 and \$126, respectively, which were recorded as credits to interest expense in its condensed consolidated statements of operations. Additionally, the Company recorded \$489 as a long-term asset on its condensed consolidated balance sheets at March 31, 2023 and December 31, 2022, which represents the Company's equity interest in Cobank SCB which will be redeemed for cash beginning in 2024.

#### **OPAL Term Loan**

On October 22, 2021, OPAL Fuels Intermediate Holding Company LLC ("OPAL Intermediate Holdco"), an indirect wholly-owned subsidiary of the Company, entered into a \$125,000 term loan agreement (the "OPAL Term Loan") with a syndicate of lenders. Of the \$125,000, the Company had \$90,000 available for borrowing upon closing and the remaining \$35,000 was made available as three more RNG facilities become operational. The OPAL Term Loan is secured by a pledge in the equity interest of Beacon Holdco LLC, OPAL Environmental Credit Marketing LLC, OPAL Fuel Station Services LLC (f/k/a Tristar Energy LLC), New River, OPAL Fuels Services LLC and the Company's share of ownership interests in Pine Bend and Noble Road along with cash bank accounts and a security interest in the Company's environmental credits. The proceeds of the OPAL Term Loan were used for general corporate purposes, including investments in RNG projects being developed by the Company.

As of March 31, 2023 and December 31, 2022, the outstanding loan balance (current and non-current) excluding deferred financing costs was \$99,157 and \$96,090, respectively. During the first quarter of 2023, the Company borrowed the remaining \$10,000 under the debt facility.

The OPAL Term Loan matures April 22, 2025 and bears interest at 3.0% plus SOFR. In accordance to the terms of the facility, OPAL Intermediate Holdco is required to repay 1.79% or \$1,611 per month beginning March 2022 and an additional \$700 per month beginning September 2022.

The OPAL Term Loan contains customary warranties and representations and certain financial covenants which require OPAL Intermediate Holdco to maintain (i) minimum liquidity of \$15,000 until March 31, 2022 and \$10,000 thereafter and (ii) a leverage ratio not to exceed 4:1. As of March 31, 2023, the Company is in compliance with the financial covenants under the OPAL Term Loan. Additionally, the OPAL Term Loan contains restrictions on distributions and additional indebtedness.

#### **Sunoma Loan**

On August 27, 2020, Sunoma, an indirect wholly-owned subsidiary of the Company entered into a debt agreement (the "Sunoma Loan Agreement") with Live Oak Banking Company for an aggregate principal amount of \$20,000. Sunoma paid \$635 as financing fees. The loan bears interest at the greater of prime rate plus 3.50%, or 7.75%. The amounts outstanding under the Sunoma Loan are secured by the assets of Sunoma.

The Sunoma Loan Agreement contains certain financial covenants which require Sunoma to maintain (i) maximum debt to net worth ratio not to exceed 5:1 (ii) a minimum current ratio not be less than 1.0 and (iii) minimum debt service coverage ratio of trailing four quarters not be less than 1.25. On July 19, 2022, Sunoma completed the conversion of the construction loan into a permanent loan and increased the commitment from \$20,000 to \$23,000.

The borrowings under the Sunoma Loan Agreement bear interest at a rate of 7.68% and have a maturity date of July 19, 2033. The Company is required to pay a quarterly amortization of principal of \$380 beginning in October 2023. The Company paid \$2,798 into interest and debt reserve accounts. This cash is recorded as Restricted cash - current and non-current under long term assets in the condensed consolidated balance Sheet as of March 31, 2023.

The significant assets of Sunoma are parenthesized in the condensed consolidated balance sheets as March 31, 2023 and December 31, 2022. See Note 12. *Variable Interest Entities* for additional information.

#### **Convertible Note Payable**

On May 1, 2021, the Company acquired the remaining ownership interests in Beacon and signed an unsecured, contingently convertible note (the "Convertible Note") with Ares for a total aggregate amount for \$50,000 at an interest rate of 8.00% per annum. The Company has the option to pay interest on the Convertible Note in cash on a quarterly basis or payment-in-kind. The Company chose the option of payment-in-kind interest.

The Convertible Note Payable matures earlier of December 31, 2026 or the date on which a change in control occurs as defined in the terms of the Convertible Note. Upon the consummation of the Business Combination, Ares was permitted to choose to convert the total amount outstanding under the Convertible Note to shares of Class A common stock based on a pre-determined conversion formula. Upon completion of the Business Combination in July 2022, Ares elected to convert 50% of the outstanding amount under the Convertible Note to shares of Class A common stock. Therefore the Company issued 3,059,533 shares of Class A common stock and redeemed outstanding debt of \$30,595.

The Company elected to account for the Convertible Note using the fair value option in accordance with ASC 820, *Fair Value Measurement*. The fair value was subsequently remeasured on each reporting date and the change in fair value recorded as interest expense in the condensed consolidated statement of operations for each reporting period. At March 31, 2023 and December 31, 2022, the Convertible Note was classified as a current liability in the condensed consolidated balance sheets at a fair value of \$29,091 and \$28,528, respectively, as it is redeemable on demand by the Company or Ares.

The Company recorded \$563 and \$1,020 as change in fair value of Convertible Note for the three months ended March 31, 2023 and 2022 respectively as interest and financing expense, net.

#### **Municipality Loan**

FM3, an indirect wholly-owned subsidiary of the Company, entered into a loan agreement for the construction of an interconnection that was initially funded by the municipality. The Company is scheduled to make payments to a municipality in the amount of \$1,600 plus interest at a fixed annual rate of 3.00% through April 1, 2023. At March 31, 2023 and December 31, 2022, \$31 and \$76, respectively, were outstanding on the loan. The loan was fully repaid in April 2023.

#### **OPAL Term Loan II**

On August 4, 2022, OPAL Fuels Intermediate Holdco 2 LLC ("OPAL Intermediate Holdco 2"), an indirect wholly-owned subsidiary the Company, entered into a new Senior Secured Credit Facility (the "OPAL Term Loan II") with a syndicate of lenders. The indebtedness is guaranteed by certain of the direct and indirect subsidiaries of OPAL Intermediate Holdco 2. The OPAL Term Loan II provides for an approximately two year delayed term loan facility (the "DDTL Facility") of up to a maximum aggregate principal amount of \$100,000 and debt service reserve facility (the "DSR Facility") of up to a maximum aggregate principal amount of \$5,000. The proceeds of the DDTL Facility are to be used to fund a portion of the construction of the RNG projects owned, either in full or through a joint venture with a third party, by the subsidiary guarantors and the proceeds of the DSR Facility are to be used solely to satisfy the balance to be maintained in the debt service reserve account. In connection with the transaction, the Company paid \$2,200 as financing fees to the lenders and incurred \$1,376 as third party fees. The transaction costs have been recorded as Deferred financing costs on the condensed consolidated balance sheet as of March 31, 2023.

The borrowings under the OPAL Term Loan II will bear interest at the benchmark rate of adjusted Term SOFR plus (i) for the period from closing to the earlier of the date of conversion of the construction loan to a term loan (the "Conversion Date") or September 30, 2024, a spread of 3.5%, and (ii) thereafter a spread of 3.75%. Accrued interest on amounts outstanding under the DDTL Facility must be paid on the last day of each applicable interest period. The outstanding principal amount of the DDTL Facility is subject to quarterly amortization payments commencing September 30, 2024

equal to 2.5% of the aggregate principal amount of the outstanding term loan balance as of the Conversion Date, subject to adjustment based on certain mandatory prepayments, with the balance due at maturity. The DSR Facility is due at maturity. The OPAL Term Loan II matures on August 4, 2027.

At March 31, 2023 and December 31, 2022, there was no principal amount outstanding under the OPAL Term Loan II.

### Interest rates

#### 2023

For the three months ended March 31, 2023, the weighted average effective interest rate including amortization of debt issuance costs on Senior Secured Credit Facility was 5.6% including a margin plus SOFR. The debt was repaid in full in March 2023.

For the three months ended March 31, 2023, the weighted average effective interest rate including amortization of debt issuance costs on OPAL Term Loan was 8.4%.

For the three months ended March 31, 2023, the interest rate on Sunoma Loan was 7.84%.

For the three months ended March 31, 2023, the payment-in-kind interest rate on Convertible Note Payable was 8.00%.

For the three months ended March 31, 2023, the weighted average interest rate on Municipality loan was 3.00%.

#### 2022

For the three months ended March 31, 2022, the weighted average effective interest rate on Senior Secured Credit Facility including amortization of debt issuance costs on Senior Secured Credit Facility was 3.45% including a margin plus LIBOR.

For the three months ended March 31, 2022, the weighted average effective interest rate on OPAL Term Loan including amortization of debt issuance costs was 4.93%.

For three months ended March 31, 2022, the interest rate on Sunoma loan was 7.75%.

For the three months ended March 31, 2022, the payment-in-kind interest rate on Convertible Note Payable was 8.0%.

For the three months ended March 31, 2022, the weighted average interest rate on Municipality loan was 3.0%.

The following table summarizes the Company's total interest expense for the three months ended March 31, 2023 and 2022:

	Three Months Ended	
	March 31,	
	2023	2022
Senior Secured Credit Facility	\$ 281	\$ 580
Convertible Note Payable mark-to-market	563	1,020
Sunoma Loan	445	510
OPAL Term Loan <sup>(1)</sup>	19	856
Commitment fees and other finance fees	128	101
Amortization of deferred financing cost	450	438
Interest expense on finance leases	16	6
Interest income	(1,261)	(454)
Total interest expense	\$ 641	\$ 3,057

<sup>(1)</sup> Excludes \$1,808 of interest capitalized and recorded as part of Property, Plant and Equipment for the three months ended March 31, 2023.

## 8. Leases

On January 1, 2022 (the "Adoption Date"), the Company adopted ASC 842. Under the new lease standard, lessees are required to recognize a right-of-use asset and a lease liability for substantially all leases. The new lease standard will continue to classify leases as either financing or operating, with classification affecting the pattern of expense recognition. The accounting applied by a lessor under the new guidance will be substantially equivalent to current lease accounting guidance.

The following are the type of contracts that fall under ASC 842:

### **Lessor contracts**

#### *Fuel Provider agreements*

Fuel provider agreements ("FPAs") are for the sale of brown gas, service and maintenance of sites. The Company is contracted to design and build a Fueling Station on the customer's property in exchange for the Company providing CNG/RNG to the customer for a determined number of years. These are considered to be operating leases with variable consideration. As per ASC 842, the revenue is recognized in the period earned.

Additionally, the Company currently has two FPAs which have minimum volume requirements. The Company evaluated these two contracts under ASC 840 and classified them as operating leases. The Company elected not to reassess the lease classification on January 1, 2022 due to change in criteria under ASC 842 for these two FPAs.

However, one of the FPAs was amended on August 25, 2022. The amendment specifically changed the counter party to another affiliate of our customer and amended the rate for fuel dispensed amongst other things. The Company reassessed the contract under ASC 842 on August 25, 2022 and determined that the contract no longer is considered a lease under ASC 842 because the customer does not substantially get all the economic benefits of the use of the fuel station. This conclusion was reached because the Company retained the right to keep all the environmental attributes and monetize by selling them to a unrelated third party.

#### *Power Purchase agreements*

Power purchase agreements ("PPAs") are for the sale of electricity generated at our Renewable Power facilities. All of our Renewable Power facilities operate under fixed pricing or indexed pricing based on market prices. Two of our Renewable Power facilities transfer the right to control the use of the power plant to the purchaser and are therefore classified as operating leases. The Company elected not to reassess the lease classification due to change in criteria under ASC 842 for these two PPAs. There were no amendments to these two contracts after the Adoption Date.

The adoption of ASC 842 did not materially impact the revenue recognition for the above contracts.

Included in Fuel Station Service revenues are \$570 and \$524 related to the lease portion of the FPAs for the three months ended March 31, 2023 and 2022, respectively. Included in Renewable Power revenues are \$331 and \$614 related to the lease element of the PPAs for the three months ended March 31, 2023 and 2022, respectively.

### **Lessee contracts**

#### *Ground/Site leases*

The Company through various of its indirectly owned subsidiaries holds site leases on landfills/dairy farms to build RNG generation facilities. Typically, the lease payments over the lease term are immaterial except for three of our RNG facilities - Beacon and two sites at our Central Valley project - MS Digester ("MS") and VS Digester ("VS").

- As of the Adoption Date, the lease at Beacon facility is for 20 years at a monthly rent of \$11.

– As of the Adoption Date, the lease term for MD and VS is for a period of 20 years from their commercial operation date at a quarterly rent of \$125. As of the Adoption Date, the commercial operation date for MD and VS was expected to be December 31, 2022 and February 1, 2023, respectively. However, as of October 1, 2022, the commercial operation date for both projects was extended to February 1, 2024. The Company accounted the change in the lease term as a lease modification and reassessed the right-of-use assets and corresponding lease liabilities as of that date.

#### *Office lease*

The Company entered into a lease for office and warehouse space that became effective upon the termination of the original lease term on January 31, 2018. The term of the lease renewal was 36 months and contained an option to renew for an additional 24 months. In September 2020, the Company exercised this option. In March 2022, the Company entered into an amendment to the lease which extended the lease term till January 2026. The rent for the lease is \$26 per month with a built in escalation to \$27 from February 1, 2022 to February 1, 2023, \$43 from February 1, 2023 - February 1, 2024, \$45 from February 1 2024 - February 1, 2025 and \$46 for the remaining lease term. The Company accounted the change in the lease term as a lease modification and reassessed the right-of-use assets and corresponding lease liabilities as of March 31, 2022.

The Company currently shares office space with Fortistar and reimburses Fortistar on a monthly basis at a predetermined rate. The Company determined that this is not a lease under ASC 842 as there is no identifiable asset and the Company does not have the right to control the use of the office space.

The Company determined that the 3 site leases and the one office lease as operating leases.

Under ASC 842, leases are classified as either finance or operating arrangements, with such classification affecting the pattern and classification of expense recognition in an entity's income statement. For operating leases, ASC 842 requires recognition in an entity's income statement of a single lease expense, calculated so that the cost of the lease is allocated over the lease term, generally on a straight-line basis. Right-of-use assets represent a right to use an underlying asset for the lease term and the related lease liability represents an obligation to make lease payments pursuant to the contractual terms of the lease agreement.

Based on the above guidance, the lease expense for the site leases is included as part of Cost of sales - RNG Fuel in its condensed consolidated statement of operations for the three months ended March 31, 2023 and 2022. The lease expense for the office lease is recorded as part Selling, general and administrative expenses in its condensed consolidated statement of operations for the three months ended March 31, 2023 and 2022.

#### *Vehicle leases*

The Company leases approximately 65 vehicles in our FM3 and OPAL Fuel Station Services subsidiaries. The leases contain repurchase options at the end of the lease term and the sum total of the lease payments represents substantially the fair value of the asset.

Under ASC 842, the Company determined that the vehicle leases are finance leases. For finance leases, ASC 842 requires recognition of amortization of right-of-use asset as part of depreciation and amortization expense and the interest on the finance lease liability as interest expense in the income statement. The Company accordingly recognized its lease expense on the vehicle leases as part of Depreciation, amortization and accretion expense and interest and financing expense, net in its condensed statement of operations for the three months ended March 31, 2023 and 2022.

#### **Lease Disclosures Under ASC 842**

The objective of the disclosure requirements under ASC 842 is to enable users of an entity's financial statements to assess the amount, timing and uncertainty of cash flows arising from lease arrangements. In addition to the supplemental qualitative leasing disclosures included above, below are quantitative disclosures that are intended to meet the stated objective of ASC 842.

Right-of-use assets and Lease liabilities as of March 31, 2023 and December 31, 2022 are as follows:

Description	Location in Balance Sheet	March 31, 2023	December 31, 2022
Assets:			
Operating leases <sup>(1)</sup> :			
Site leases <sup>(2)</sup>	Right-of-use assets	\$ 10,298	\$ 10,338
Office lease <sup>(3)</sup>	Right-of-use assets	1,299	1,406
		<u>11,597</u>	<u>11,744</u>
Finance leases <sup>(1)</sup> :			
Vehicle leases	Property, plant and equipment, net	1,135	1,236
		<u>12,732</u>	<u>12,980</u>
Liabilities <sup>(1)</sup> :			
Sites leases	Lease liabilities - current portion	188	181
Office lease	Lease liabilities - current portion	479	449
Vehicle leases	Accrued expenses and other current liabilities	410	449
		<u>1,077</u>	<u>1,079</u>
Sites leases	Lease liabilities - non-current portion	10,114	10,135
Office lease	Lease liabilities - non-current portion	986	1,110
Vehicle leases	Other long-term liabilities	740	825
		<u>\$ 11,840</u>	<u>\$ 12,070</u>

<sup>(1)</sup> The Operating lease right-of-use asset and Operating lease liabilities represent the present value of lease payments for the remaining term of the lease. The discount rate used ranged from 2.30% to 5.40%.

<sup>(2)</sup> The Company recorded lease modifications on two of site leases on October 1, 2022 where the lease term was extended and reduced the right-of-use asset and the corresponding lease liabilities by \$2,550 as the incremental borrowing rates increased in the fourth quarter of 2022 when the lease modification was recorded.

<sup>(3)</sup> The Company exercised its option to extend the lease in March 2022 which the Company recorded as a lease modification. The Company increased the right-of-use asset and the corresponding lease liability by \$1,829.

The table below presents components of the Company's lease expense for the three months ended March 31, 2023 and 2022:

Description	Location in Statement of Operations	Three Months Ended March 31,	
		2023	2022
Operating lease expense for site leases	Cost of sales - RNG Fuel	\$ 263	\$ 263
Operating lease expense for office lease	Selling, general, administrative expenses	121	121
Amortization of right-of-use assets - finance leases	Depreciation, amortization and accretion expense	140	83
Interest expense on lease liabilities - finance leases	Interest and financing expense, net	16	6
		<u>\$ 540</u>	<u>\$ 473</u>

The Company does not have material short term lease expense for the three months ended March 31, 2023 and 2022.

The Company did not enter into any operating leases greater than 12 months for the three months ended March 31, 2023.

<b>Weighted average remaining lease term (years)</b>	March 31, 2023
Operating leases	18.5 years
Financing leases	2.9 years
<b>Weighted average discount rate</b>	
Operating leases	7.91 %
Financing leases	5.98 %

The table below provides the total amount of lease payments on an undiscounted basis on our lease contracts as of March 31, 2023:

	Site leases	Office leases	Vehicle leases	Total
Discount rate upon adoption	5.4 %	2.3 %	7.6 %	
2023	\$ 783	\$ 391	\$ 360	\$ 1,534
2024	1,044	540	421	2,005
2025	1,044	562	314	1,920
2026	1,044	47	160	1,251
2027 and beyond	17,913	—		17,913
	<u>21,828</u>	<u>1,540</u>	<u>1,255</u>	<u>24,623</u>
Present value of lease liability	10,302	1,465	1,150	12,917
Lease liabilities - current portion	188	479	410	1,077
Lease liabilities - non-current portion	10,114	986	740	11,840
Total lease liabilities	<u>\$ 10,302</u>	<u>\$ 1,465</u>	<u>\$ 1,150</u>	<u>\$ 12,917</u>
Discount based on incremental borrowing rate	\$ 11,526	\$ 75	\$ 105	\$ 11,706

## 9. Derivative Financial Instruments and Fair Value Measurements

### Interest rate swaps

During August 2022, the Company entered into two interest rate swaps for the notional amount of \$61,926 of OPAL Term Loan II at a fixed interest rate of 2.47% to hedge the SOFR-based floating interest rate. On August 16, 2022, the Company entered into a swaption for a notional amount of \$13,074 with fixed rate of 2.32% with a maturity date of May 31, 2023. The Company accounted for the swaption as an economic hedge and included the change in the fair market value in the condensed consolidated statement of operations.

The two interest rate swaps were designated and qualified as cash flow hedges. The Company uses interest rate swaps for the management of interest rate risk exposure, as an interest rate swap effectively converts a portion of the Company's debt from a floating to a fixed rate. The interest rate swap is an agreement between the Company and counterparties to pay, in the future, a fixed-rate payment in exchange for the counterparties paying the Company a variable payment. The amount of the net payment obligation is based on the notional amount of the interest rate swap and the prevailing market interest rates. The Company may terminate the interest rate swaps prior to their expiration dates, at which point a realized gain or loss may be recognized, or may be amortized over the original life of the interest rate swap if the hedged debt remains outstanding. The value of the Company's commitment would increase or decrease based primarily on the extent to which interest rates move against the rate fixed for each swap.

The Company records the fair value of the interest rate swap as an asset or liability on its balance sheet. The effective portion of the swap is recorded in Accumulated other comprehensive income. No portion of the cash flow hedges were ineffective during the three months ended March 31, 2023. There are no amounts that would be released from the other comprehensive income in the next twelve months.

The following table summarizes the interest rate swaps in place as of March 31, 2023 and December 31, 2022:

Interest rate swap detail				Notional Amount	
Trade date	Fixed rate	Start date	End date	March 31, 2023	December 31, 2022
August 15, 2022	2.47 %	June 28, 2024	August 4, 2027	\$ 41,284	41,284
August 15, 2022	2.47 %	June 28, 2024	August 4, 2027	20,642	20,642
				<u>\$ 61,926</u>	<u>\$ 61,926</u>

The location and amounts of interest rate swaps and their fair values in the condensed consolidated balance sheets are:

	March 31, 2023	December 31, 2022	Location of Fair Value Recognized in Balance Sheet
Derivatives designated as economic hedges:			
Current portion of swaption	\$ 116	\$ 182	Derivative financial assets, current portion
Derivatives designated as cash flow hedges:			
Long term portion of the interest rate swaps	598	954	Derivative financial assets, non-current
	<u>\$ 714</u>	<u>\$ 1,136</u>	

The effect of interest rate swaps on the condensed consolidated statement of operations were as follows:

	Three Months Ended March 31,		Location of (Loss) Gain Recognized in Operations from Derivatives
	2023	2022	
Interest rate swaps	\$ —	\$ 619	
Swaption	(66)	—	
Net periodic settlements	—	(383)	
	<u>\$ (66)</u>	<u>\$ 236</u>	Change in fair value of derivative instruments, net

The Company may be exposed to credit risk on any of the derivative financial instruments that are in an asset position. Credit risk relates to the risk of loss that the Company would incur because of nonperformance by counterparties pursuant to the terms of their contractual obligations. To mitigate this risk, management monitors counterparty credit exposure on an annual basis and enters into these arrangements with large financial institutions. The necessary credit adjustments have been reflected in the fair value of financial derivative instruments. There are no credit-risk-related contingent features that could be triggered in derivative financial instruments that are in a liability position.

The Company enters into interest rate swap contracts with counterparties that allow for net settlement of derivative assets and derivative liabilities. The Company has made an accounting policy election to offset recognized amounts relating to these interest swaps within the condensed consolidated balance sheets.

The following table summarizes the fair value of derivative instruments on the Company's condensed consolidated balance sheets and the effect of netting arrangements and collateral on its financial position:



	Gross Amounts of Recognized Assets	Gross Amounts Offset in the Balance Sheet	Net Amounts of Assets in the Balance Sheet
<b>Balance, March 31, 2023:</b>			
Interest rate swap asset	\$ 598	\$ —	\$ 598
Swaption asset	116	—	116
	<u>\$ 714</u>	<u>\$ —</u>	<u>\$ 714</u>
<b>Balance, December 31, 2022:</b>			
Interest rate swap asset	\$ 954	\$ —	\$ 954
Swaption asset	182	—	182
	<u>\$ 1,136</u>	<u>\$ —</u>	<u>\$ 1,136</u>

There were no collateral balances with counterparties outstanding as of the period-end dates.

#### Commodity swap contracts

The Company utilizes commodity swap contracts to hedge against the unfavorable price fluctuations in market prices of electricity. The Company does not apply hedge accounting to these contracts. As such, unrealized and realized gain (loss) is recognized as a component of Renewable Power revenues in the condensed consolidated statement of operations and Derivative financial asset — current and non-current in the condensed consolidated balance sheets. These are considered to be Level 2 instruments in the fair value hierarchy. By using commodity swaps, the Company exposes itself to credit risk and market risk. Credit risk is the failure of the counter party to perform under the terms of the swap contract. When the fair value of the swap contract is positive, the counter party owes the Company creating a credit risk. The Company manages the credit risk by entering into contracts with financially sound counter parties. To mitigate this risk, management monitors counterparty credit exposure on an annual basis, and the necessary credit adjustments have been reflected in the fair value of financial derivative instruments. When the fair value of the swap contract is negative, the Company owes the counterparty creating a market risk that the market price is higher than the contract price resulting in the Company not participating in the opportunity to earn higher revenues.

In December 2018, the Company signed an amendment that converted an existing PPA into a commodity swap contract to allow the Company flexibility to sell the capacity separately and schedule the sale of electricity to independent third parties. Following the amendment, the Company agreed to net settle the contract in cash on a monthly basis based on the difference between the contract price and market price. The contract has a default minimum of 34,554 MWh per year. Additionally, the Company entered into an ISDA agreement with a counterparty in November 2019. Pursuant to the agreement, the Company entered into swaps with contract prices ranging between \$35.75 and \$51.25 per MWh.

The following table summarizes the commodity swaps in place as of March 31, 2023 and December 31, 2022. There were no new commodity swap contracts entered during the three months ended March 31, 2023.

Trade Date	Period From	Period To	Notional Quantity per Year ("MWh")	Average Contract Price (per MWh)
October 17, 2022	January 1, 2023	December 31, 2024	70,176	\$ 68.50
October 17, 2022	January 1, 2023	December 31, 2024	26,280	\$ 65.50
November 17, 2022	January 1, 2023	December 31, 2024	35,088	\$ 81.50

The following table summarizes the effect of commodity swaps on the condensed consolidated statements of operations for the three months ended March 31, 2023 and 2022:

Derivatives not designated as hedging instruments	Location of (loss) gain recognized	Three Months Ended March 31,	
		2023	2022
Commodity swaps - realized gain	Revenues - Renewable power	\$ 371	\$ 37
Commodity swaps - unrealized gain (loss)	Revenues - Renewable power	922	(833)
Total realized and unrealized gain (loss)	Revenues - Renewable power	\$ 1,293	\$ (796)

The following table summarizes the derivative assets and liabilities related to commodity swaps as of March 31, 2023 and December 31, 2022

	Fair Value		Location of Fair value recognized in Balance Sheet
	March 31, 2023	December 31, 2022	
Derivatives designated as economic hedges			
Current portion of unrealized gain on commodity swaps	\$ 333	\$ —	Derivative financial asset, current portion
Non-current portion of unrealized gain on commodity swaps	\$ 459	\$ —	Derivative financial asset, non-current portion
Current portion of unrealized loss on commodity swaps	\$ —	\$ (130)	Derivative financial liability, current portion

#### Other derivative liabilities

The following table summarizes the effect of change in fair value of other derivative liabilities on the condensed consolidated statements of operations for the three months ended March 31, 2023 and 2022:

Derivative liability	Three Months Ended March 31,		Location of (Loss) Gain Recognized in Operations from Derivatives
	2023	2022	
Put option to Meteora	\$ 311	\$ —	
Sponsor Earnout Awards	310	—	
OPAL Earnout Awards	4,000	—	
	\$ 4,621	\$ —	Change in fair value of derivative instruments, net

#### Fair value measurements

The fair value of financial instruments, including long-term debt and derivative instruments is defined as the amount at which the instruments could be exchanged in a current transaction between willing parties. The carrying amount of cash and cash equivalents, accounts receivable, net, and accounts payable and accrued expenses approximates fair value due to their short-term maturities.

The carrying value of the Company's long-term debt of \$91,252 and \$88,312 as of March 31, 2023 and December 31, 2022, respectively, represents the total amount to be repaid if the debt has to be discharged in full and therefore approximates its fair value.

The Company follows ASC 820, *Fair Value Measurement*, regarding fair value measurements which establishes a three-tier fair value hierarchy and prioritizes the inputs used in valuation techniques that measure fair value. These tiers include:

Level 1 — defined as observable inputs such as quoted prices for identical instruments in active markets;

Level 2 — defined as quoted prices for similar instruments in active market, quoted prices for identical or similar instruments in markets that are not active, or model-derived valuations for which all significant inputs are observable market data;

Level 3 — defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

Financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company's assessment of the significance of an input to the fair value measurement requires judgment and may affect the valuation of fair value assets and liabilities and their placement within the fair value hierarchy levels.

The Company's interest rate swap contracts are valued with pricing models commonly used by the financial services industry using discounted cash flows of forecast future swap settlements based on projected three-month SOFR rates. The Company does not consider these models to involve significant judgment on the part of management and corroborated the fair value measurements with counterparty valuations. The Company's interest rate swaps are classified within Level 2 of the valuation hierarchy based on the observable market rates used to determine its fair value. The Company does not expect to change its valuation techniques and therefore does not anticipate any transfers into or out of different levels of hierarchy. These interest rate swaps are accounted for as derivative financial instrument assets.

The Company values its energy commodity swap contracts based on the applicable geographical market energy forward curve. The forward curves are derived based on the quotes provided by New York Mercantile Exchange, Amerex Energy Services and Tradition Energy. The Company does not consider that the pricing index used involves significant judgement on the part of management. Therefore, the Company classifies these commodity swap contracts within Level 2 of the valuation hierarchy based on the observable market rates used to determine fair value.

The Company accounts for asset retirement obligations by recording the fair value of a liability for an asset retirement obligation in the period in which it is incurred and when a reasonable estimate of fair value can be made. The Company estimates the fair value of asset retirement obligations by calculating the estimated present value of the cost to retire the asset. This estimate requires assumptions and judgments regarding the existence of liabilities, the amount and timing of cash outflows required to settle the liability, inflation factors, credit adjusted discount rates, and consideration of changes in legal, regulatory, environmental, and political environments. In addition, the Company determines the Level 3 fair value measurements based on historical information and current market conditions. These assumptions represent Level 3 inputs, which can regularly change. As such, the fair value measurement of asset retirement obligations is subject to changes in these unobservable inputs as of the measurement date. The Company used a discounted cash flow model in which cash outflows estimated to retire the asset are discounted to their present value using an expected discount rate. A significant increase (decrease) in the discount rate in isolation could result in a significantly lower (higher) fair value measurement. The Company estimated the fair value of its asset retirement obligations based on discount rates ranging from 5.75% to 8.5%.

The Company accounts for the Convertible Note Payable at fair value at each reporting period. As of March 31, 2023 December 31, 2022, the Company recorded the Convertible Note Payable at par plus accrued interest as it is payable on demand by either party and therefore represents fair value.

The fair value of the Sponsor Earnout Awards as of March 31, 2023 was determined using a Monte Carlo valuation model with a distribution of potential outcomes on a daily basis over the four year post-close period. Assumptions used in the valuation are as follows:

- Current stock price — The Company's closing stock price of \$6.97 as of March 31, 2023;
- Expected volatility —65% based on historical and implied volatilities of selected industry peers deemed to be comparable to our business corresponding to the expected term of the awards;
- Risk-free interest rate — 3.67% based on the U.S. Treasury yield curve in effect at the time of issuance for zero-coupon U.S. Treasury notes with maturities corresponding to the expected 4.3 year term of the earnout period;
- Dividend yield - zero.

The fair value of the OPAL Earnout Awards as of March 31, 2023 was determined using a Monte Carlo valuation model with a distribution of potential outcomes for stock price and EBITDA over the 2-year period commencing on January 1, 2023 and ending on December 31, 2024. Assumptions used in the valuation are as follows:

- Current stock price — The Company's closing stock price of \$6.97 as of March 31, 2023;
- Weighted average cost of capital - 16% based on an average of historical volatilities of selected industry peers deemed to be comparable to our business.
- Expected volatility —55% based on historical and implied volatilities of selected industry peers deemed to be comparable to our business corresponding to the expected term of the awards;
- Risk-free interest rate — 4.7% based on the U.S. Treasury yield curve in effect at the time of issuance for zero-coupon U.S. Treasury notes with maturities corresponding to the expected 2.2 year term of the earnout period;
- Dividend yield - zero.

There were no transfers of assets between Level 1, Level 2, or Level 3 of the fair value hierarchy as of March 31, 2023.

The Company's assets and liabilities that are measured at fair value on a recurring basis include the following as of March 31, 2023 and December 31, 2022, set forth by level, within the fair value hierarchy:

	Fair value as of March 31, 2023			
	Level 1	Level 2	Level 3	Total
<b>Liabilities:</b>				
Asset retirement obligation	\$ —	\$ —	\$ 6,358	\$ 6,358
Convertible Note Payable	—	29,091	—	29,091
Earnout liabilities	—	—	4,480	4,480
<b>Assets:</b>				
Short term investments	36,989	—	—	36,989
Commodity swap contracts	—	792	—	792
Swaption	—	116	—	116
Interest rate swaps	\$ —	\$ 598	\$ —	\$ 598

	Fair value as of December 31, 2022			
	Level 1	Level 2	Level 3	Total
<b>Liabilities:</b>				
Asset retirement obligation	\$ —	\$ —	\$ 6,256	\$ 6,256
Convertible Note Payable <sup>(1)</sup>	—	28,528	—	28,528
Put option with Meteora	—	—	4,466	4,466
Commodity swap contracts	—	130	—	130
Earnout liabilities	—	—	8,790	8,790
<b>Assets:</b>				
Short term investments	64,976	—	—	64,976
Swaption	—	182	—	182
Commodity swap contracts	—	954	—	954

<sup>(1)</sup> The fair value of Convertible Note Payable as of December 31, 2022, represents the outstanding principal and paid-in-kind interest. Therefore it did not have any unobservable inputs which required the Company to develop its own assumptions. The methodology for calculating the fair value has changed as of December 31, 2022 as the prepayment penalty was cancelled upon consummation of Business Combination. Therefore, the Convertible Note Payable has been transferred from Level 3 to Level 2.

A summary of changes in the fair values of the Company's Level 3 instruments, attributable to asset retirement obligations, for the three months ended March 31, 2023 is included in Note 2, *Summary of Significant Accounting Policies*.

## 10. Related Parties

Related parties are represented by Fortistar and other affiliates, subsidiaries and other entities under common control with Fortistar or NextEra.

### *Sale of non-controlling interests to Related Parties*

On November 29, 2021, as part of an exchange agreement, OPAL Fuels issued 14 newly authorized common units and 300,000 Series A-1 preferred units to Hillman in return for Hillman's non-controlling interest in four RNG project subsidiaries for total consideration of \$30,000. Upon the consummation of the Business Combination, the Series A-1 preferred units have been converted to Redeemable preferred non-controlling interests. The Company recorded paid-in-kind preferred dividend of \$655 and \$600 for the three months ended March 31, 2023 and 2022. Please see Note 13. *Redeemable non-controlling interests, Redeemable preferred non-controlling interests and Stockholders' Deficit*, for additional information.

### *Issuance of Redeemable preferred non-controlling interests*

On November 29, 2021, NextEra subscribed for up to 1,000,000 Series A preferred units, which are issuable (in whole or in increments) at the Company's discretion prior to June 30, 2022. During the year ended December 31, 2022, the Company had drawn \$100,000 and issued 1,000,000 Series A preferred units. The Company recorded paid-in-kind preferred dividend of \$2,108 and \$117 for the three months ended March 31, 2023 and 2022, respectively. Please see Note 13. *Redeemable non-controlling interests, Redeemable preferred non-controlling interests and Stockholders' deficit*, for additional information.

### *Purchase and sale agreement for environmental attributes*

On November 29, 2021, the Company entered into a purchase and sale agreement with NextEra for the environmental attributes generated by the RNG Fuels business. Under this agreement, the Company plans to sell a minimum of 90% of the environmental attributes generated and will receive net proceeds based on the agreed upon price less a specified discount. A specified volume of environmental attributes sold per quarter will incur a fee per environmental attribute in addition to the specified discount. The agreement was effective beginning January 1, 2022. For the three months ended March 31, 2023 and 2022, the Company earned net revenues after discount and fees of \$6,208 and \$12,896, respectively, under this contract which was recorded as part of Revenues - RNG fuel and Fuel Station Services. Please see Note 2. *Summary of Significant Accounting Policies* for additional information.

### *Commodity swap contracts under ISDA*

The Company entered into an ISDA agreement with NextEra in November 2019. Pursuant to the agreement, the Company enters into commodity swap contracts on a periodic basis. As of March 31, 2023 and December 31, 2022, there were three commodity swap contracts outstanding. The Company records the realized and unrealized gain (loss) on these commodity swap contracts as part of Revenues - Renewable Power. Please see Note 9. *Derivative Financial Instruments and Fair Value Measurements* for additional information. The Company recorded \$1,527 and \$1,026 as revenues earned under the commodity swap contracts for the three months ended March 31, 2023 and 2022.

### *Purchase of investments from Related Parties*

In August 2021, the Company acquired a 100% of the ownership interests in Reynolds, an RNG production facility for \$12,020 which was funded with cash on hand. Reynolds held an equity investment of 1,570 Class B units in GREP representing 20% interest for a cash consideration of \$1,570 which owns 50% of Biotown, a power generation facility under development to convert to an RNG facility. The Reynolds transaction was an asset acquisition from an affiliate under common control. The Company accounts for its 20% equity investment in GREP under the equity method. The Company recorded a net loss of \$203 and \$96 as its share of net loss for the three months ended March 31, 2023 and 2022.

#### Sales contracts with Related Parties

In August 2020, OFSS contracted with Sunoma to dispense RNG and to generate and market the resulting RINs created on behalf of the entity. Additionally, OFSS contracted with Pine Bend in December 2020 and Noble Road in March 2021 to provide the same services.

The term of this contract runs for a term of 10 years. The Company receives non-cash consideration in the form of RINs or LCFs for providing these services and recognizes the RINs or LCFs received as inventory based on their estimated fair value at contract inception. The Pine Bend and Noble road came online in the first and third quarter of 2022. Sunoma came online in the fourth quarter of 2021. For the three months ended March 31, 2023 and 2022, the Company earned environmental processing fees of \$585 and \$0 net of intersegment elimination, under this agreement which are included in Fuel Station Services revenues in the condensed consolidated statements of operations.

#### Service agreements with Related Parties

On December 31, 2020, OPAL Fuels signed a management, operations, and maintenance services agreement (“Administrative Services Agreement”) with Fortistar LLC (“Fortistar”), pursuant to which Fortistar provides management, operations, and maintenance services to the Company. The agreement expires on December 31, 2023, unless termination occurs earlier due to dissolution of the Company or the agreement is terminated by the Company’s secured lenders in certain circumstances. The agreement provides for payment of service fees based on actual time incurred at contractually agreed rates provided for in the Administrative Services Agreement, as well as a fixed annual payment of \$580 per year adjusted annually for inflation. Additionally, the agreement provides for the Company to receive credits for any services provided by the Company’s employees to Fortistar. For the three months ended March 31, 2023 and 2022, there have been no material services provided by the Company’s employees to Fortistar.

In June 2021, the company entered into a management services agreement with Costar Partners LLC (“Costar”), an affiliate of Fortistar. Pursuant to the agreement, Costar provides information technology (“IT”) support services, software use, licensing services, management of third party infrastructure and security services and additional IT services as needed by the Company. The agreement provides for Costar to be compensated based on actual costs incurred and licensing fees per user for certain software applications. The agreement expires in June 2024 unless the termination occurs earlier due to dissolution of the Company or it is terminated by the Company’s secured lenders in certain circumstances.

The following table summarizes the various fees recorded under the agreements described above which are included in "Selling, general, and administrative" expenses:

	Three Months Ended March 31,	
	2023	2022
Staffing and management services	\$ 575	\$ 473
Rent - fixed compensation	165	183
IT services	726	539
Total	\$ 1,466	\$ 1,195

As of March 31, 2023 and December 31, 2022, the Company had Accounts payable, related party in the amounts of \$839 and \$1,346, respectively.

#### 11. Reportable Segments and Geographic Information

The Company is organized into four operating segments based on the characteristics of its renewable power generation, dispensing portfolio, and the nature of other products and services. During the first quarter of 2023, the Company changed its' internal reporting to its executive leadership team ("Chief Operating Decision Makers"). The internal reporting was changed to provide more visibility into our RNG fuel production and operations and to align fuel dispensing revenues with construction and service of fuel dispensing stations.

Therefore, the Company reclassified the revenues and the corresponding cost of sales for CNG tolling business which were previously presented as part of Revenues - RNG Fuel and Cost of sales - RNG Fuel to Revenues - Fuel station services and Cost of sales - Fuel station services, respectively. The Company also adjusted the revenues and cost of sales for prior year period presented for comparison purposes. For the three months ended March 31, 2023 and 2022, the Company classified revenues from CNG tolling business of \$8,851 and \$10,093, respectively, as part of Revenues - Fuel station services. For the three months ended March 31, 2023 and 2022, the Company classified cost of sales relating to CNG tolling business of \$8,522 and \$6,773, respectively as part of Cost of sales - Fuel station services.

We aligned our reportable segments disclosure to align with the information and internal reporting that is provided to our Chief Operating Decision Makers. Therefore, the Company reassessed its reportable segments and revised all the prior periods to make the segment disclosures comparable.

- **RNG Fuel.** The RNG Fuel segment relates to all RNG supply directly related to the generation and sale of brown gas and environmental credits, and consists of:
  - Development and construction – RNG facilities in which long term gas right contracts have been, or are in the process of being ratified and the construction of RNG generation facilities.
  - RNG supply operating facilities – This includes the generation, extraction, and sale of RNG - plus associated RINs and LCFs from landfills.

For the three months ended March 31, 2023 and 2022, the Company has accounted for its interests in Pine Bend, Reynolds and Noble Road under the equity method of accounting and the results of operations of Beacon, New River, Central Valley, Emerald, Sapphire and Sunoma were consolidated in its condensed consolidated statement of operations. As of March 31, 2023, Central Valley, Emerald, and Sapphire are not operational. Sunoma became operational in December 2021, Noble Road in January 2022, New River in April 2022 and Pine Bend in September 2022.

- **Fuel Station Services.** Through its Fuel Station Services segment, the Company provides construction and maintenance services to third-party owners of vehicle Fueling Stations and performs fuel dispensing activities including generation and minting of environmental credits. This segment includes:
  - Service and maintenance contracts for RNG/CNG fueling sites. Includes a manufacturing division that builds Compact Fueling Systems and Defueling systems.
  - Third Party CNG Construction of Fueling Stations - Design/build and serve as general contractor for typically Guarantee Maximum Price or fixed priced contracts for customers usually lasting less than one year.
  - RNG and CNG fuel dispensing stations for vehicle fleets - This includes both dispensing/sale of brown gas and the environmental credit generation and monetization. The Company operates Fueling Stations that dispense gas for vehicles. This also includes the development and construction of these facilities.
- **Renewable Power Portfolio.** The Renewable Power portfolio segment generates renewable power through methane-rich landfills and digester gas collection systems which is then sold to public utilities throughout the United States. The Renewable Power portfolio operates primarily in Southern California.
- **Corporate.** This segment consists of activities managed and maintained at the Company corporate level primarily including but not limited to:
  - Executive, accounting, finance, sales activities such as: payroll, stock compensation expense, travel and other related costs.
  - Insurance, professional fees (audit, tax, legal etc.).

The Company has determined that each of the four operating segments meets the characteristics of a reportable segment under U.S. GAAP. The Company's activities and assets that are not associated with the four reportable segments are summarized in the "Other" category below. These include corporate investment income, interest income and interest expense, income tax expense, and other non-allocated costs.

	Three Months Ended March 31,	
	2023	2022
<b>Revenues:</b>		
Renewable Power	\$ 9,918	\$ 9,637
RNG Fuel	19,733	18,098
Fuel Station Services	24,575	24,170
Other <sup>(1)</sup>	17	36
Intersegment	(3,747)	(2,598)
Equity Method Investment(s)	(7,539)	(296)
	<u>\$ 42,957</u>	<u>\$ 49,047</u>

<sup>(1)</sup> Other includes revenues of Fortistar Contracting LLC.

	Three Months Ended March 31,	
	2023	2022
<b>Interest and Financing Expense, Net:</b>		
Renewable Power	\$ (264)	\$ (917)
RNG Fuel	(655)	(88)
Fuel Station Services	10	(6)
Corporate	268	(2,046)
	<u>\$ (641)</u>	<u>\$ (3,057)</u>

	Three Months Ended March 31,	
	2023	2022
<b>Depreciation, Amortization, and Accretion:</b>		
Renewable Power	\$ 1,452	\$ 1,798
RNG Fuel	2,024	1,126
Fuel Station Services	790	666
Other <sup>(1)</sup>	16	33
Equity Method Investment(s)	(715)	(227)
	<u>\$ 3,567</u>	<u>\$ 3,396</u>

(1) Other includes amortization of intangible assets and depreciation expense not allocated to any segment.

	Three Months Ended March 31,	
	2023	2022
<b>Net loss</b>		
Renewable Power	\$ (903)	\$ (2,078)
RNG Fuel	1,177	1,918
Fuel Station Services	41	4,555
Corporate	(8,366)	(8,205)
Equity Method Investment(s)	705	(657)
	<u>\$ (7,346)</u>	<u>\$ (4,467)</u>



	Three Months Ended March 31,	
	2023	2022
Cash paid for Purchases of Property, Plant, and Equipment:		
Renewable Power	\$ —	\$ —
Fuel Station Services	5,665	1,911
RNG Fuel	33,115	20,598
	<u>\$ 38,780</u>	<u>\$ 22,509</u>

	March 31,	December 31,
	2023	2022
Total Assets:		
Renewable Power	\$ 46,199	\$ 43,468
RNG Fuel	347,591	347,750
Fuel Station Services	110,113	119,669
Corporate and other	52,229	82,204
Equity Method Investment(s)	50,570	51,765
	<u>\$ 606,702</u>	<u>\$ 644,856</u>

Geographic Information: The Company's assets and revenue generating activities are domiciled in the United States.

## 12. Variable Interest Entities

We determine whether we are the primary beneficiary of a VIE upon our initial involvement with the VIE and we reassess whether we are the primary beneficiary of a VIE on an ongoing basis. Our determination of whether we are the primary beneficiary of a VIE is based upon the facts and circumstances for each VIE and requires judgment. Our considerations in determining the VIE's most significant activities and whether we have power to direct those activities include, but are not limited to, the VIE's purpose and design and the risks passed through to investors, the voting interests of the VIE, management, service and/or other agreements of the VIE, involvement in the VIE's initial design, and the existence of explicit or implicit financial guarantees. If we are the party with the power over the most significant activities, we meet the "power" criteria of the primary beneficiary. If we do not have the power over the most significant activities or we determine that all significant decisions require consent of a third-party, we do not meet the "power" criteria of the primary beneficiary.

We assess our variable interests in a VIE both individually and in aggregate to determine whether we have an obligation to absorb losses of or a right to receive benefits from the VIE that could potentially be significant to the VIE. The determination of whether our variable interest is significant to the VIE requires judgment. In determining the significance of our variable interest, we consider the terms, characteristics and size of the variable interests, the design and characteristics of the VIE, our involvement in the VIE, and our market-making activities related to the variable interests.

As of March 31, 2023 and December 31, 2022, the Company held equity interests in five VIEs — Sunoma, GREP, Emerald, Sapphire, and Central Valley. GREP has been presented as an equity method investment and the remaining four VIEs Sunoma, Emerald, Sapphire, and Central Valley are consolidated by the Company.

In 2020, the Company acquired a variable interest in Sunoma in a joint venture with a third-party who does not have any equity at risk but participates in proportionate share of income or losses, which may be significant. Additionally, the assets in Sunoma are collateralized under the Sunoma loan, the proceeds of which are used for partial financing of the construction of the Sunoma facility. Therefore, the significant assets and liabilities of Sunoma are parenthesized in the condensed consolidated balance sheets as of March 31, 2023 and December 31, 2022.

The Company determined that each of these entities are VIEs and in its capacity as a managing member except for Emerald and Sapphire, the Company is the primary beneficiary. The Company is deemed as a primary beneficiary based on two conditions:

- The Company, as a managing member, has the power to order the activities that significantly impact the economic performance of the four entities including establishment of strategic, operating, and capital decisions for each of these entities; and
- The Company has the obligation to absorb the potential losses for the right to receive potential benefits, which could be significant to the VIE;

As a primary beneficiary, the Company consolidates these entities in accordance with the variable interest entity model guidance under ASC 810, *Consolidation*.

The VIEs, Emerald and Sapphire are organized as 50/50 joint ventures managed by an independent board consisting of four members appointed by the Company and the joint venture partner. The board of managers has sole power and authority to conduct, direct and exercise control over the joint venture's activities except with respect to certain terms under certain operating agreements. The Company determined that it is the primary beneficiary as a result of its economic exposure and incremental power to direct certain key economic activities of the joint venture and therefore consolidated the VIEs in its condensed consolidated financial statements.

Our variable interests in each of our VIEs arise primarily from our ownership of membership interests, construction commitments, our provision of operating and maintenance services, and our provision of environmental credit processing services to VIEs.

The following table summarizes the major condensed consolidated balance sheet items for consolidated VIEs as of March 31, 2023 and December 31, 2022. The information below is presented on an aggregate basis based on similar risk and reward characteristics and the nature of our involvement with the VIEs, such as:

- All of the VIEs are RNG facilities and they are reported under the RNG Fuel Supply segment;
- The nature of our interest in these entities is primarily equity based and therefore carry similar risk and reward characteristics;

The amount of assets that can only be used to settle obligations of the VIEs are parenthesized in the condensed consolidated balance sheets and are included in the asset totals listed in the table below.

	As of March 31, 2023	As of December 31, 2022
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 7,274	\$ 12,506
Accounts receivable, net	252	966
Restricted cash - current	688	6,971
Environmental credits held for sale	29	—
Prepaid expenses and other current assets	251	415
Total current assets	8,494	20,858
Property, plant and equipment, net	93,225	73,140
Restricted cash, non-current	3,157	2,923
Total assets	\$ 104,876	\$ 96,921
<b>Liabilities and equity</b>		
Current liabilities:		
Accounts payable	\$ 10,430	\$ 4,896
Accounts payable, related party	279	433
Accrued capital expenses	8,027	7,821
Accrued expenses	178	646
Sunoma Loan- current portion	768	380
Total current liabilities	19,682	14,176
Sunoma loan, net of debt issuance costs	21,337	21,712
Total liabilities	41,019	35,888
Equity		
Stockholders' equity	35,888	34,588
Non-redeemable non-controlling interests	27,969	26,445
Total equity	63,857	61,033
Total Liabilities and Equity	\$ 104,876	\$ 96,921

### 13. Redeemable non-controlling interests, Redeemable preferred non-controlling interests and Stockholders' Deficit

#### Common stock

As of March 31, 2023, there are (i) 29,330,115 shares of Class A common stock issued and outstanding, (ii) 144,399,037 shares of New OPAL Class D common stock issued and outstanding, (iii) no shares of Class B common stock, par value \$0.0001 per share, of ("Class B common stock") issued and outstanding ( Shares of Class B common stock do not have any economic value except voting rights as described below) and (iv) no shares of Class C common stock, par value \$0.0001 per share, (" Class C common stock") issued and outstanding (shares of Class D common stock do not have any economic value except voting rights as described below)

During the first quarter of 2023, Meteora exercised the put option pursuant to the terms of the forward purchase contract. The Company repurchased 1,635,783 shares at a price of \$10.02 per share. The Company recorded \$11,614 representing the fair value of the treasury stock as part of stockholders' deficit and \$4,777 as an offset to the derivative financial liability, current on its condensed consolidated balance sheet as of March 31, 2023.

In March 2023, the Company issued 49,633 shares to certain warrant holders as consideration for their prior agreement to tender all warrants held by the warrant holders in the Company's voluntary exchange offer which closed on December

22, 2022. The Company recorded \$338 representing the fair value of the shares issued based on the closing price on March 30, 2023 as part of Other income (expense), net.

**Redeemable preferred non-controlling interests**

On November 29, 2021, as part of an exchange agreement (“Hillman exchange”), the Company issued 300,000 Series A-1 preferred units to Hillman in return for Hillman’s non-controlling interest in four RNG project subsidiaries.

On November 29, 2021, Mendocino Capital LLC (“NextEra”) subscribed for up to 1,000,000 Series A preferred units, which are issuable (in whole or in increments) at the Company’s discretion prior to June 30, 2022. During the year ended December 31, 2022, the Company had drawn \$100,000 and issued 1,000,000 Series A preferred units.

Upon completion of Business Combination, the Company assumed Series A-1 preferred units and Series A preferred units which were issued and outstanding by OPAL Fuels. The Company recorded the Series A-1 preferred units and Series A preferred units as Redeemable preferred non-controlling interests. The Company has elected to adjust the carrying value of the preferred units to the redemption value at the end of each reporting period by immediately amortizing the issuance costs in the first reporting period after issuance of the preferred units.

The following table summarizes the changes in the redeemable preferred non-controlling interests which represent Series A and Series A-1 preferred units outstanding at OPAL Fuels level from December 31, 2022 to March 31, 2023:

	Series A-1 preferred units		Series A preferred units		Total
	Units	Amount	Units	Amount	
<b>Balance, December 31, 2022</b>	300,000	\$ 32,736	1,000,000	\$ 105,406	\$ 138,142
Series A units issued by OPAL Fuels	—	—	—	—	—
Paid-in-kind dividends attributable to OPAL Fuels	—	549	—	1,769	2,318
Paid-in kind dividends attributable to Class A common stockholders	—	106	—	339	445
<b>Balance, March 31, 2023</b>	<b>300,000</b>	<b>\$ 33,391</b>	<b>1,000,000</b>	<b>\$ 107,514</b>	<b>\$ 140,905</b>

*Terms of Redeemable preferred units*

The Series A and Series A-1 preferred units (together the “Preferred Units”) have substantially the same terms and features which are listed below:

**Voting:** The Series A-1 preferred units to Hillman do not have any voting rights. The Series A preferred units issued to NextEra have limited rights to prevent the Company from taking certain actions including (i) major issuances of new debt or equity (ii) executing transactions with affiliates which are not at arm-length basis (iii) major disposition of assets and (iv) major acquisition of assets outside of the Company’s primary business.

**Dividends:** The Preferred Units are entitled to receive dividends at the rate of 8% per annum. Dividends begin accruing for each unit from the date of issuance and are payable each quarter end regardless of whether they are declared. The dividends are mandatory and cumulative. The Company is allowed to elect to issue additional Preferred Units ( paid-in-kind) in lieu of cash for the first eight dividend payment dates. The Company elected to pay the dividends to be paid-in-kind for all periods presented. In the occurrence of certain events of default, the annual dividend rate increases to 12%. Additionally, the dividend rate increases by 2% for each unrelated uncured event of default up to a maximum of 20%.

**Liquidation preference:** In the event of liquidation of the Company, each holder of a unit of Series A and Series A-1 is entitled to be paid on pro-rata basis the original issue price of \$100 per unit plus any accrued and unpaid dividends out of the assets of the Company available for distribution after payment of the Company’s debt and liabilities and liquidation expenses.

Redemption: At any time after issuance, the Company may redeem the Redeemable preferred units for a price equal to original issue price of \$100 per unit plus any accrued and unpaid dividends. Holders of the Preferred Units may redeem for an amount equal to original issue price of \$100 per unit plus any accrued and unpaid dividends upon (i) occurrence of certain change in control event (ii) at the end of four years from the date of issuance, except the Preferred Units issued to Hillman can only be redeemed 30 days after the fourth year anniversary of the first issuance of Preferred Units to NextEra. The maturity date is determined to be the date at which the holder's redemption option becomes exercisable as this is the date in which both the Company and the holder may redeem the preferred units. The maturity date could be as early as November 29, 2025 but no later than June 30, 2026, depending on when the Series A units to NextEra are issued as previously detailed herein.

Conversion: Holder's may elect to convert Preferred Units into common units in the limited chance that the Company fails to redeem the Preferred Units under an optional redemption, the annual dividend rate increases to 12% and is further increased to 14% after one year, and thereafter by 2% every 90 days up to a cap of 20%. The Company must also redeem all NextEra Series A preferred units on which the redemption option has been exercised prior to redeeming any Hillman Series A-1 preferred units. If elected, the holder may convert all or a portion of its Preferred Units into a number of common units equal to: (i) number of Preferred Units, multiplied by, (ii) \$100 plus accrued and unpaid cash dividends, divided by, (iii) conversion price. The conversion price is equal to the value of the Company's common units determined as follows, and reduced by a 20% discount if conversion occurs during the first year of delayed redemption, a 25% discount during the 2nd year, and a 30% discount thereafter:

1. Using 20-day volume-weighted average price ("VWAP") of the Company's common shares.
2. Otherwise the estimated proceeds to be received by the holder of a common unit if the net assets of the Company were sold at fair market value and distributed.

#### ***Redeemable non-controlling interests***

Upon consummation of Business Combination, OPAL Fuels and its members caused the existing limited liability company agreement to be amended and restated and in connection therewith, all of the common units of OPAL Fuels LLC issued and outstanding immediately prior to the closing were re-classified into 144,399,037 Class B Units. Each Class B Unit is paired with 1 non-economic share of Class D common stock issued by the Company. Each pair of Class B Unit and 1 share of Class D common stock is exchangeable to either 1 share of Class A common stock or 1 share of Class C common stock at the holder's option. Upon an exchange for Class A common stock, the Company has the option to redeem shares for cash at their market value.

Redeemable non-controlling interests have been presented as mezzanine equity in the condensed consolidated statements of change in Redeemable non-controlling interests, Redeemable preferred non-controlling interests and stockholders' equity. At each balance sheet date, the Redeemable non-controlling interests are adjusted up to their redemption value if necessary, with an offset in Stockholders' equity. As of March 31, 2023, the Company recorded \$1,013,835 to adjust the carrying value to their redemption value based on a 5 day VWAP of \$7.02 per share.

#### **14. Stock-based compensation**

The Company adopted 2022 Omnibus Equity Incentive Plan (the "2022 Plan") in 2022 which was approved by our shareholders on July 21, 2022. The purposes of the 2022 Plan are to (i) provide an additional incentive to selected employees, directors, and independent contractors of the Company or its Affiliates whose contributions are essential to the growth and success of the Company, (ii) strengthen the commitment of such individuals to the Company and its Affiliates, (iii) motivate those individuals to faithfully and diligently perform their responsibilities and (iv) attract and retain competent and dedicated individuals whose efforts will result in the long-term growth and profitability of the Company. The 2022 Plan allows for granting of stock options, stock appreciation rights, restricted stock, restricted stock units and other stock-based awards. The Company registered 19,811,726 shares of Class A common stock that can be issued under this Plan.

On March 31, 2023, the Company issued 196,961 stock options, 888,831 restricted stock units and 274,617

performance units to certain employees of the Company. The fair value of the stock options was determined to be \$5.26 based on Black Scholes model based share price of \$6.97, exercise price of \$6.97, expiration of 10 years, annual risk free interest rate of 4.04% and volatility of 65%. Additionally, the Company issued 135,583 restricted stock units to the board of directors. The total fair value of the equity awards was \$6,955.

As of March 31, 2023, there were 1,446,763 restricted stock units, 196,961 stock options and 274,617 performance units outstanding under the 2022 Plan. As of December 31, 2022, there were 422,349 restricted stock units outstanding under the 2022 Plan.

#### 15. Net loss Per Share

The basic loss per share of Class A common stock is computed by dividing the net loss attributable to Class A common stockholders by the weighted average number of Class A common stock outstanding during the period. The basic loss per share for the three months ended March 31, 2023 and 2022 does not include 1,635,783 shares in treasury, 763,908 shares issued and outstanding but are contingent on achieving earnout targets. During the first quarter of 2023, the put option was exercised and 197,258 shares of Class A common stock were cancelled.

Prior to the Business Combination, the membership structure of OPAL Fuels included common units which shared in the profits and losses of OPAL Fuels LLC. The Company analyzed the calculation of earnings per units for periods prior to the consummation of the Business Combination and determined that such information would not be meaningful to the users of these condensed consolidated financial statements. Therefore net income per share information has not been presented for the three months ended March 31, 2022.

The diluted loss per share of Class A common stock for the three months ended March 31, 2023 does not include Redeemable preferred non-controlling interests, Convertible Note Payable because the substantive contingency for conversion has not been met as of March 31, 2023. It does not include 144,399,037 OPAL Fuels Class B units representing Redeemable non-controlling interest as its impact is anti-dilutive. It does not include 763,908 Sponsor Earnout Awards and 10,000,000 OPAL Earnout Awards as their target share price and adjusted EBITDA contingencies have not been met as of March 31, 2023. The outstanding restricted stock units, stock options and performance units issued under the 2022 Plan are not included as their impact is dilutive.

The Class D common stock does not participate in the earnings or losses of the Company and are therefore not participating securities. As such, separate presentation of basic and diluted earnings per share of Class D common stock under the two-class method has not been presented.

The following table summarizes the calculation of basic and diluted net loss per share:

	<b>March 31, 2023</b>	
Net loss attributable to Class A common stockholders	\$	(1,579)
Weighted average number of shares of Class A common stock - basic		27,383,562
Dilutive effect of stock options, restricted stock units, performance units, Convertible note payable, earnout shares, Redeemable preferred non-controlling interests, Redeemable non-controlling interests		—
Weighted average number of shares of Class A common stock - diluted		27,383,562
Net loss per share of Class A common stock		
Basic	\$	(0.06)
Diluted	\$	(0.06)

#### 16. Income taxes

As a result of the Company's up-C structure effective with the Business Combination, the Company expects to be a

tax-paying entity. However, as the Company has historically been loss-making, any deferred tax assets created as a result of net operating losses and other deferred tax assets for the excess of tax basis in the Company's investment in Opal Fuels would be offset by a full valuation allowance. Prior to the Business Combination, OPAL Fuels was organized as a limited liability company, with the exception of one partially-owned subsidiary which filed income tax returns as a C-Corporation. The Company accounts for its income taxes using the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to the differences between the financial statement carrying amount of existing assets and liabilities and their respective tax basis and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the year in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in earnings in the period that includes the enactment date. Judgment is required in determining the provisions for income and other taxes and related accruals, and deferred tax assets and liabilities. In the ordinary course of business, there are transactions and calculations where the ultimate tax outcome is uncertain. Additionally, the Company's various tax returns are subject to audit by various tax authorities. Although the Company believes that its estimates are reasonable, actual results could differ from these estimates.

For the three months ended March 31, 2023, the Company recorded zero income tax expense. The effective tax rate for the three months ended March 31, 2023 was 0%. The difference between the Company's effective tax rate for the three months ended March 31, 2023 and the U.S. statutory tax rate of 21% was primarily due to a full valuation allowance recorded on the Company's net U.S. deferred tax assets. The Company did not record a tax provision for the three months ended March 31, 2022 primarily due to OPAL Fuels' status as a pass-through entity for U.S. federal income tax purposes. The Company evaluates the realizability of the deferred tax assets on a quarterly basis and establishes a valuation allowance when it is more likely than not that all or a portion of a deferred tax asset may not be realized.

## **17. Commitments and Contingencies**

### **Letters of Credit**

As of March 31, 2023 and December 31, 2022, the Company was required to maintain five and nine standby letters of credit totaling \$1,498 and \$2,292, respectively, to support obligations of certain Company subsidiaries. These letters of credit were issued in favor of a lender, utilities, a governmental agency, and an independent system operator under PPA electrical interconnection agreements, and in place of a debt service reserve. There have been no draws to date on these letters of credit.

### **Purchase Options**

The Company has two contracts with customers to provide CNG for periods of seven and ten years, respectively. The customers have an option to terminate the contracts and purchase the Company's CNG Fueling Station at the customers' sites for a fixed amount that declines annually.

In July 2015, the Company entered into a ten year fuel sales agreement with a customer that included the construction of a CNG Fueling Station owned and managed by the Company on the customer's premises. At the end of the contract term, the customer has an option to purchase the CNG Fueling Station for a fixed amount. The cost of the CNG Fueling Station was recorded to Property, plant, and equipment and is being depreciated over the contract term.

### **Legal Matters**

The Company is involved in various claims arising in the normal course of business. Management believes that the outcome of these claims will not have a material adverse effect on the Company's financial position, results of operations or cash flows.

## **18. Subsequent Events**

On April 13, 2023, a wholly-owned subsidiary of OPAL Fuels Inc. (referred to herein as the "Company") entered into a Landfill Gas Purchase and Sale Agreement and a Lease Agreement (collectively, the "Agreements") with Waste Management of Illinois, Inc. ("WM"), an indirect wholly owned subsidiary of Waste Management, Inc. The Agreements, which are effective as of March 13, 2023, provide the Company with the right to purchase LFG from WM's Cottonwood Hills Landfill located in Marissa, Illinois, and to build and operate a facility (the "Facility") on a parcel located on the landfill footprint to process the LFG into RNG. Per the terms and conditions of the Agreements, WM will receive a lease

payment and certain royalties from the sale of RNG produced by the Facility, including with respect to any sales of environmental credits or other attributes associated with the RNG. The terms of the Agreements are 25 years from the date the Facility commences operations.

On May 2, 2023, a wholly-owned subsidiary of the Company (referred to below as the “Company”) entered into a Landfill Gas Purchase Agreement (the “Agreement”) with Polk County, a political subdivision of the State of Florida (“Polk County”). The Agreement provides the Company with the right to purchase LFG from the Polk County North Central Landfill located in Winter Haven, Florida. The Agreement anticipates a site lease (“Site Lease”) to be entered into between the Company and Polk County that would provide the Company with the right to build and operate a facility (the “Facility”) on a parcel of real property located at or near the landfill to process the LFG into RNG. There is no assurance that the Site Lease will be fully executed. Per the terms and conditions of the Agreement, Polk County will receive certain payments and royalties from the sale of RNG produced by the Facility, including with respect to the sale of environmental credits or other attributes associated with the RNG. Unless earlier terminated or extended per the terms and conditions of the Agreement, the term of the Agreement expires on April 26, 2042.



## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

*In this Management's Discussion and Analysis of Financial Condition and Results of Operations section, references to "OPAL", "we", "us", "our", and the "Company" refer to OPAL Fuels Inc. and its consolidated subsidiaries. The following discussion and analysis should be read in conjunction with the Company's unaudited condensed consolidated financial statements as of March 31, 2023 and for the three months ended March 31, 2023 and 2022, and the audited consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K, which was filed with the SEC on March 29, 2023. In addition to historical information, this discussion and analysis includes certain forward-looking statements which reflect our current expectations. The Company's actual results may materially differ from these forward-looking statements.*

### Overview

We are a renewable energy company specializing in the capture and conversion of biogas for the (i) production of RNG for use as a vehicle fuel for heavy and medium-duty trucking fleets, (ii) generation of electricity generated from renewable sources ("Renewable Power") for sale to utilities, (iii) generation and sale of Environmental Attributes (as defined below) associated with RNG and Renewable Power, and (iv) sales of RNG as pipeline quality natural gas. We also design, develop, construct, operate and service Fueling Stations for trucking fleets across the country that use natural gas to displace diesel as their transportation fuel. The Biogas Conversion Projects currently use LFG and dairy manure as the source of the biogas. In addition, we have recently begun implementing design, development, and construction services for hydrogen Fueling Stations, and we are pursuing opportunities to diversify its sources of biogas to other waste streams. The term "Environmental Attributes" refers to federal, state and local government incentives in the United States, provided in the form of renewable identification numbers ("RINs"), renewable energy credits ("RECs"), low carbon fuel standard ("LCFS") credits, rebates, tax credits and other incentives to end users, distributors, system integrators and manufacturers of renewable energy projects, that promote the use of renewable energy. We separately design, develop, construct, operate and service Fueling Stations for vehicle fleets across the country that dispense RNG and/or CNG to displace diesel as a fleet transportation fuel.

The Company was formerly known as Arclight Clean Transition Corp II ("Arclight"), which was a blank check company incorporated in Cayman Islands on January 13, 2021. Arclight was formed for the purpose of effecting a merger, share exchange, asset acquisition, reorganization or similar business combination with one or more businesses. OPAL Fuels LLC was formed in December 2020 as a wholly owned subsidiary of OPAL HoldCo under the laws of the State of Delaware. On December 31, 2020, Fortistar LLC and certain of its affiliated entities contributed their respective ownership interests in the following legal entities to OPAL Fuels in a common-control reorganization: TruStar Energy Holdings LLC, Fortistar RNG LLC, Fortistar Methane 3 Holdings LLC, Fortistar Methane 3 LLC, Fortistar Contracting LLC, and Fortistar Methane 4 LLC. On December 2, 2021, the Company, OPAL HoldCo and OPAL Fuels entered into a business combination agreement.

### Business combination

On July 21, 2022, we completed the Business Combination. After giving effect to the Business Combination, the redemption of public shares as described below, the consummation of the related PIPE investment, and the separation of the former ArcLight units, there are currently (i) 25,171,390 shares of our Class A common stock issued and outstanding, (ii) 144,399,037 shares of our Class D common stock issued and outstanding, (iii) no shares of Class B common stock, par value \$0.0001 per share ("Class B common stock") issued and outstanding (shares of Class B common stock do not have any economic value but entitle the holder thereof to one vote per share) and (iv) no shares of our Class C common stock, par value \$0.0001 per share, ("Class C common stock") issued and outstanding (shares of Class C common stock entitle the holder thereof to five votes per share). The Class A common stock and warrants commenced trading on the Nasdaq Global Select Market under the symbols "OPAL" and "OPALW," respectively, on July 22, 2022.

### Recent developments

On April 13, 2023, a wholly-owned subsidiary of the Company (referred to below as the "Company") entered into a Landfill Gas Purchase and Sale Agreement and a Lease Agreement (collectively, the "Agreements") with Waste Management of Illinois, Inc. ("WM"), an indirect wholly-owned subsidiary of Waste Management, Inc. The Agreements, which are effective as of March 13, 2023, provide the Company with the right to purchase LFG from WM's Cottonwood Hills Landfill located in Marissa, Illinois, and to build and operate a facility (the "Facility") on a parcel located on the landfill footprint to process the LFG into renewable natural gas ("RNG"). Per the terms and conditions of the Agreements, WM will receive a lease payment and certain royalties from the sale of RNG produced by the Facility, including with respect to any sales of environmental credits or other attributes associated with the RNG. The terms of the Agreements are 25 years from the date the Facility commences operations.

On May 2, 2023, a wholly-owned subsidiary of the Company (referred to below as the “Company”) entered into a Landfill Gas Purchase Agreement (the “Agreement”) with Polk County, a political subdivision of the State of Florida (“Polk County”). The Agreement provides the Company with the right to purchase LFG from the Polk County North Central Landfill located in Winter Haven, Florida. The Agreement anticipates a site lease (“Site Lease”) to be entered into between the Company and Polk County that would provide the Company with the right to build and operate a facility (the “Facility”) on a parcel of real property located at or near the landfill to process the LFG into RNG. There is no assurance that the Site Lease will be fully executed. Per the terms and conditions of the Agreement, Polk County will receive certain payments and royalties from the sale of RNG produced by the Facility, including with respect to the sale of environmental credits or other attributes associated with the RNG. Unless earlier terminated or extended per the terms and conditions of the Agreement, the term of the Agreement expires on April 26, 2042.

#### **Construction Update**

- The Emerald RNG project remains on track to commence commercial operations in the next few months.
- The Prince William RNG project is expected to commence commercial operations in the fourth quarter of 2023.
- The Sapphire RNG project is now expected to commence commercial operations in the first half of 2024 due to permitting delays.
- Our two dairy projects in California and our Northeast landfill project are anticipated to be commissioned in the second half of 2024.
- OPAL Fuels’ share of annual nameplate capacity for the six projects in construction is approximately 4.7 million MMBtu, including 4.2 million MMBtu of landfill projects and 0.5 MMBtu of dairy projects.

#### **Development Update**

- We are on track to place at least 2 million MMBtu of RNG projects (representing OPAL Fuels’ proportional ownership) into construction in 2023.
- Our Advanced Development Pipeline comprises 9.4 million MMBtu of feedstock biogas per year, compared to 8.3 million MMBtu at year-end.
- OPAL Fuels recently entered into gas rights agreements for two landfill RNG projects, one with a municipality in Polk County, Florida and the other with WM in Illinois. These projects are 100% owned by OPAL Fuels.
- The Polk County project is anticipated to have nameplate capacity of approximately 1.1 million annual MMBtu, with start of construction expected next month and commencement of operations anticipated in the second half of 2024.
- The WM project is anticipated to have nameplate capacity<sup>3</sup> of 600,000 to 700,000 annual MMBtu, with start of construction expected in the second half of 2023.

#### *Impact of COVID-19*

In response to the COVID-19 pandemic, we instituted a safety committee that oversees our compliance with federal, state, and local government mandates, and ensures that the Company adheres to Centers for Disease Control guidelines to maintain safe working conditions for our employees. Some of the protocols we implemented include limiting in-person work to essential personnel and performing temperature checks. Since March 2020, where practicable, our employees have worked remotely and minimized travel and other non-essential contact. Additionally, we are providing our employees with COVID-19 testing at no cost and personal protective equipment for their safety and well-being.

As of the date of this report, the COVID-19 pandemic has had a relatively minimal economic impact on our results of operations.

The duration and future economic severity of the COVID-19 remains uncertain, and our results of operations and financial condition could potentially face material adverse effect(s) in the future due to COVID-19.

## Critical Accounting Policies

The discussion and analysis of our financial condition and results of operations is based upon our interim unaudited condensed consolidated financial statements, which have been prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP") and the rules and regulations of the SEC, which apply to interim financial statements. The preparation of those financial statements requires us to make estimates and judgments that affect the reported amounts of assets and liabilities, revenues, expenses and warrants and related disclosure of contingent assets and liabilities at the date of our financial statements. Actual results may differ from these estimates under different assumptions and conditions.

Critical accounting policies are those that reflect significant judgments of uncertainties and potentially result in materially different results under different assumptions and conditions. As the discussion and analysis of our financial condition and results of operations are based upon our interim unaudited condensed consolidated financial statements, they do not include all of the information on critical accounting policies normally included in consolidated financial statements. Accordingly, a detailed description of these critical accounting policies and the consolidated financial statements and notes thereto are included in the Company's Annual Report on Form 10-K, which was filed with SEC on March 29, 2023.

## Use of Estimates

The preparation of the condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The significant estimates and assumptions of the Company relate to the useful lives of property, plant and equipment, the value of stock-based compensation and the fair value of derivatives including warrant liabilities, earnout liabilities, put option on a forward purchase agreement, interest rate swaps and commodity swap contracts. Actual results could differ from those estimates.

## Key Factors and Trends Influencing our Results of Operations

The principal factors affecting our results of operations and financial condition are the markets for RNG, Renewable Power, and associated Environmental Attributes, and access to suitable biogas production resources. Additional factors and trends affecting our business are discussed in "Risk Factors" elsewhere in this report.

### Market Demand for RNG

Demand for our converted biogas and associated Environmental Attributes, including RINs and LCFS credits, is heavily influenced by United States federal and state energy regulations together with commercial interest in renewable energy products. Markets for RINs and LCFS credits arise from regulatory mandates that require refiners and blenders to incorporate renewable content into transportation fuels. The EPA annually sets proposed renewable volume obligations ("RVOs") for D3 (cellulosic biofuel with a 60% greenhouse gas ("GHG") reduction requirement) RINs in accordance with the mandates established by the Energy Independence and Security Act of 2007. The Environmental Protection Agency's issuance of timely and sufficient annual RVOs to accommodate the RNG industry's growing production levels is necessary to stabilize the RIN market. The EPA is required to set RVOs for 2023 and beyond and the EPA introduced proposed Set rule in December 2022 with rule finalization expected in June 2023. Until the rules and RVOs are finalized, this may create additional uncertainty as to RIN pricing. On the state level, the economics of RNG are enhanced by low-carbon fuel initiatives, particularly well-established programs in California and Oregon (with several other states also actively considering LCFS initiatives similar to those in California and Oregon). Federal and state regulatory developments could result in significant future changes to market demand for the RINs and LCFS credits we produce. This would have a corresponding impact to our revenue, net income, and cash flow.

Commercial transportation, including heavy-duty trucking, generates approximately 30% emissions of overall CO<sub>2</sub> and other climate-harming GHGs in the United States, and transitioning this sector to low and negative carbon fuels is a critical step towards reducing overall global GHG emissions. The adoption rate of RNG-powered vehicles by commercial transportation fleets will significantly impact demand for our products.

We are also exposed to the commodity prices of natural gas and diesel, which serve as alternative fuel for RNG and therefore impact the demand for RNG.

We also generate revenues from sales of RECs and Renewable Power generated by our biogas-to-Renewable Power projects. RECs exist because of legal and governmental regulatory requirements, and a change in law or in governmental policies concerning Renewable Power, landfill gas ("LFG"), or the sale of RECs could affect the market for, and the pricing of, the RECs that we generate through production at our Biogas Conversion Projects. We periodically evaluate opportunities to convert existing biogas-to-Renewable Power projects to RNG production. This strategy has been an increasingly attractive avenue for growth when RNG from landfills become eligible for D3 RINs. We have been negotiating with several of our Renewable Power off-takers to enter arrangements that would free up the LFG resource to produce RNG. Changes in the price we receive for RECs and Renewable Power, together with the revenue opportunities and conversion costs associated with converting our LFG sites to RNG production, could have a significant impact on our future profitability.

### Key Components of Our Results of Operations

We generate revenues from the sale of RNG fuel, Renewable Power, and associated Environmental Attributes, as well as from the construction, fuel supply, and servicing of Fueling Stations for commercial transportation vehicles using natural gas to power their fleets. These revenue sources are presented in our statement of operations under the following captions:

- **RNG Fuel.** The RNG Fuel segment includes RNG supply as well as the associated generation and sale of commodity natural gas and environmental credits, and consists of:
  - RNG Production Facilities – the design, development, construction, maintenance and operation of facilities that convert raw biogas into pipeline quality natural gas; and
  - The Company's interests in both operating and construction projects.
- **Fuel Station Services.** Through its Fuel Station Services segment, the Company provides construction and maintenance services to third-party owners of vehicle Fueling Stations and performs fuel dispensing activities including generation and minting of environmental credits. This segment includes:
  - Manufacturing division that builds Compact Fueling Systems and Defueling systems;
  - Design/Build contracts where the Company serves as general contractor for construction of Fueling Stations, typically structured as Guarantee Maximum Price or fixed priced contracts for customers, generally lasting less than one year;
  - Service and maintenance contracts for RNG/CNG Fueling Stations; and
  - RNG and CNG Fuel Dispensing Stations - This includes both the dispensing (or sale) of RNG, commodity natural gas, and environmental credit generation and monetization. The Company operates Fueling Stations that dispense both CNG and RNG fuel for vehicles.
- **Renewable Power Portfolio.** The Renewable Power portfolio segment generates renewable power through combustion of biogas from landfills and digester gas collection systems which is then sold to public utilities throughout the United States. The Renewable portfolio operates primarily in Southern California.

Our costs of sales associated with each revenue category are as follows:

- **RNG Fuel.** Includes royalty payments to biogas site owners for the biogas we use; service provider costs; salaries and other indirect expenses related to the production process, utilities, transportation, storage, and insurance; and depreciation of production facilities.
- **Fuel Station Services.** Includes equipment supplier costs; service provider costs; and salaries and other indirect expenses.
- **Renewable Power.** Includes land usage costs; service provider costs; salaries and other indirect expenses related to the production process; utilities; and depreciation of production facilities.

Selling, general, and administrative expense consists of costs involving corporate overhead functions, including the cost of services provided to us by an affiliate, and marketing costs.

Depreciation and amortization primarily relate to depreciation associated with property, plant, and equipment and amortization of acquired intangibles arising from PPAs and interconnection contracts. We are in the process of expanding our RNG and Renewable Power production capacity and expect depreciation costs to increase as new projects are placed into service.

**Results of Operations for the three months ended March 31, 2023 and 2022:**

**Operational data**

The following table summarizes the operational data achieved for the three months ended March 31, 2023 and 2022:

	Three Months Ended March 31,	
	2023	2022
RNG Fuel volume produced (Million MMBtus)	0.6	0.4
RNG Fuel volume sold (Million GGEs)	8.3	6.1
Total volume delivered (Million GGEs)	32.4	25.6

**RNG projects**

Below is a table setting forth the RNG projects in operation and construction in our portfolio:

	OPAL's Share of Design capacity (MMbtus per year) <sup>(1)</sup>	Source of bio gas	Ownership <sup>(2)</sup>
<b>RNG projects in operation:</b>			
Greentree	1,061,712	LFG	100%
Imperial	1,061,712	LFG	100%
New River	663,570	LFG	100%
Noble Road <sup>(3)</sup>	464,499	LFG	50%
Pine Bend <sup>(3)</sup>	424,685	LFG	50%
Biotown <sup>(3)</sup>	48,573	Dairy	10%
Sunoma	192,350	Dairy	90%
<b>Sub total</b>	<b>3,917,101</b>		
<b>RNG projects in construction:</b>			
Emerald	1,327,140	LFG	50%
Prince William	1,725,282	LFG	100%
Hilltop	255,500	Dairy	100%
Vander Schaaf	255,500	Dairy	100%
Sapphire	796,284	LFG	50%
New England	318,514	LFG	100%
<b>Sub total</b>	<b>4,678,220</b>		
<b>Total</b>	<b>8,595,321</b>		

<sup>(1)</sup> Design capacity may not reflect actual production of RNG from the projects, which will depend on many variables including, but not limited to, quantity and quality of the biogas, operational up-time of the facility, and actual productivity of the facility.

<sup>(2)</sup> Certain projects have provisions that will adjust, or “flip,” the percentage of distributions to be made to us over time, typically triggered by achievement of hurdle rates that are calculated as internal rates of return on capital invested in the project.

<sup>(3)</sup> We record our ownership interests in these projects as equity method investments in our consolidated financial statements.

### Renewable Power Projects

Below is a table setting forth the Renewable Power projects in operation in our portfolio:

	Nameplate capacity (MW per hour) <sup>(1)</sup>	RNG conversion candidate	Stage of RNG conversion
California 1	5.2	Yes	In Development
California 3	3.0	No	N/A
California 4	3.2	No	N/A
California 5	1.8	No	N/A
California 6	1.6	No	N/A
California 7	6.5	No	N/A
California 8	6.5	No	N/A
Florida	2.9	No	N/A
Massachusetts 2	3.6	No	N/A
Michigan 1E <sup>(2)</sup>	28.9	Yes	In Construction
Michigan 3	6.3	Yes	In Development
New York	5.9	No	N/A
North Carolina 1	14.4	Yes	In Development
Pennsylvania	8.0	No	N/A
Prince William 1E <sup>(3)</sup>	1.9	Yes	In Development
Prince William 2E <sup>(4)</sup>	4.8	Yes	In Development
Virginia - Richmond	8.0	Yes	In Development
<b>Total</b>	<b>112.5</b>		

<sup>(1)</sup> Nameplate capacity is the maximum permitted output for each facility and may not reflect actual MW production from the projects, which depends on many variables including, but not limited to, quantity and quality of the biogas, operational up-time of the facility, and actual productivity of the facility.

<sup>(2)</sup> See RNG Projects Table above, reference "Michigan 1" under "RNG Projects In Construction." It is currently contemplated that the Michigan 1E renewable power plant will continue limited operations on a stand-by, emergency basis through March of 2031.

<sup>(3)</sup> See RNG Projects Table above, reference "Prince William" under "RNG Projects In Construction." It is currently contemplated that the Prince William 1E renewable power plant will continue operations through approximately August 2023.

<sup>(4)</sup> See RNG Projects Table above, reference "Prince William" under "RNG Projects In Construction." It is currently contemplated that the Prince William 2E renewable power plant will continue operations through approximately November 2023.

**Comparison of the Three Months Ended March 31, 2023, and 2022**

The following table presents the period-over-period change for each line item in the Company's statement of operations for the three months ended March 31, 2023 and 2022 .

<i>(in thousands)</i>	Three Months Ended March 31,		\$ Change	% Change
	2023	2022		
<b>Revenues:</b>				
RNG fuel	\$ 12,194	\$ 15,049	\$ (2,855)	(19)%
Fuel station services	20,828	24,874	(4,046)	(16)%
Renewable Power	9,935	9,124	811	9 %
Total revenues	42,957	49,047	(6,090)	(12)%
<b>Operating expenses:</b>				
Cost of sales - RNG fuel	7,523	7,714	(191)	(2)%
Cost of sales - Fuel station services	20,292	19,663	629	3 %
Cost of sales - Renewable power	8,378	8,408	(30)	— %
Selling, general, and administrative	14,472	10,855	3,617	33 %
Depreciation, amortization, and accretion	3,567	3,396	171	5 %
Total expenses	54,232	50,036	4,196	8 %
Operating loss	(11,275)	(989)	(10,286)	(1040)%
<b>Other income (expense)</b>				
Interest and financing expense, net	(641)	(3,057)	2,416	79 %
Change in fair value of derivative instruments, net	3,933	236	3,697	1567 %
Other expense	(68)	—	(68)	(100)%
Income (loss) from equity method investments	705	(657)	1,362	207 %
Net loss before provision for income taxes	(7,346)	(4,467)	(2,879)	(64)%
Provision for income taxes	—	—	—	— %
Net loss	(7,346)	(4,467)	(2,879)	64 %
Net loss attributable to redeemable non-controlling interests	(8,233)	(4,942)	(3,291)	(67)%
Net loss attributable to non-redeemable non-controlling interests	(297)	(242)	(55)	(23)%
Paid-in-kind preferred dividends	2,763	717	2,046	285 %
<b>Net loss attributable to Common stockholders</b>	<b>(1,579)</b>	<b>—</b>	<b>(1,579)</b>	<b>(100)%</b>

**Revenues**

*RNG Fuel*

Revenue from RNG Fuel decreased by \$2.9 million, or 19%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. The decrease is primarily due to a decrease of \$7.7 million in sales volume of RINs and LCFSs sold as the Company made a decision to hold the RINs and LCFSs as inventory at hand due to current pricing levels coupled with a decrease in brown gas sales due to lower pricing, offset by an increase in revenues of \$5.5 million from methanol path way credits.

*Fuel Station Services*

Revenue from Fuel Station Services decreased by \$4.0 million, or 16%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. This was primarily attributable to a decrease of \$3.1 million from fuel station construction projects delays and \$3.3 million from third party RIN sales due to lower volumes, offset by higher service revenues of \$0.6 million and higher RIN minting services of \$1.3 million from four new third party suppliers.

#### *Renewable Power*

Revenue from Renewable Power increased by \$0.8 million, or 9%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. This change was attributable primarily to mark to market change in commodity swaps of \$1.1 million.

#### **Cost of sales**

##### *RNG Fuel*

Cost of sales from RNG Fuel decreased by \$0.2 million, or 2%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022.

##### *Fuel Station Services*

Cost of sales from Fuel Station Services increased by \$0.6 million, or 3%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. This change was attributable primarily to an increase in downstream dispensing costs.

##### *Renewable Power*

Cost of sales from Renewable Power marginally decreased by \$30.0 thousand, or 0%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022.

#### **Selling, general, and administrative**

Selling, general, and administrative expenses increased by a total of \$3.6 million, or 33%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. This is primarily due to increase in costs from compensation and benefits by \$1.6 million, bad debt of \$0.5 million, stock based comp expense of \$0.8 million and directors and officers insurance of \$0.7 million.

#### **Depreciation, amortization, and accretion**

Depreciation, amortization, and accretion marginally increased by a total of \$0.2 million, or 5%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022.

#### **Interest and financing expense, net**

Interest and financing expenses, net decreased by \$2.4 million, or 79%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. The decrease is primarily attributable to capitalized interest of \$0.8 million of OPAL Term loan, \$0.3 million on Senior Secured Facility, \$0.8 million of interest income and \$0.5 million savings on Convertible Note Payable.

#### **Change in fair value of derivatives, net**

Change in fair value of derivatives, net increased by \$3.7 million, or 1567%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. This is primarily attributable to \$4.3 million change in fair of value of Earnout Liabilities offset by negative change in fair value of the put option by \$0.3 million and \$0.3 million in interest rate swaps.

#### **Other expense**

Loss on warrant exchange increased by \$0.1 million, or 100%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. This change is primarily related to \$0.3 million of fair value of 49,633 shares issued to certain warrant holders as consideration for their prior agreement to tender all warrants held by the warrant holders in the Company's voluntary exchange offer which closed on December 22, 2022 offset by gain on transfer of non-financial assets to a vendor.

#### **Income from equity method investments**

Net income attributable to equity method investments increased by \$1.4 million, or 207%, for the three months ended March 31, 2023 compared to the three months ended March 31, 2022. This change was attributable primarily to the



increase in net income from Noble Road and Pine Bend as the facilities became operational in January and September of 2022. Prior to being operational, Pine and Noble Road had development costs resulting in net loss during the comparable period in the prior year.

***Net loss attributable to redeemable non-controlling interests***

Net loss attributable to redeemable non-controlling interests increased by \$3.3 million or 67%. The net loss for the three months ended March 31, 2023 and 2022 reflects the portion of earnings belonging to OPAL Fuels equity holders.

***Net loss attributable to non-redeemable non-controlling interests***

Net loss attributable to non-redeemable non-controlling interests for the three months ended March 31, 2023 remained flat compared to three months ended March 31, 2022. This reflects the joint venture partners' loss in certain RNG facilities in which we sold a portion of our ownership interests but are consolidated in our financial statements. These entities for the three months ended March 31, 2023 and 2022, were Sunoma, Emerald, Sapphire and Central Valley.

***Paid-in-kind preferred dividends***

On November 29, 2021, we entered into an exchange agreement with Hillman whereby Hillman exchanged its ownership interests in the four RNG projects of \$30.0 million into 300,000 series A-1 preferred units at a par value of \$100 per unit and 1.4% of the common units of OPAL Fuels. On the same day, we entered into a subscription agreement with NextEra for up to 1,000,000 Series A preferred units, which were issued to NextEra during first and second quarters of 2022 for total proceeds of \$100.0 million. Upon completion of the Business Combination, these were converted to redeemable preferred non-controlling interests.

Redeemable preferred non-controlling interests carry an interest of 8% dividend payable quarterly either in cash or paid-in-kind for the first eight quarters at the option of the Company. The Company recorded the dividend payable of \$2.7 million and \$0.7 million for the three months ended March 31, 2023 and 2022, respectively as to be paid-in-kind.

**Liquidity and Capital Resources**

***Liquidity***

As of March 31, 2023, our liquidity consisted of cash and cash equivalents including restricted cash of \$39.8 million and \$37.0 million of short term investments. Additionally, we entered into the OPAL Term Loan II where we have undrawn availability of \$105.0 million.

We expect that our available cash together with our other assets, expected cash flows from operations, available lines of credit under various debt facilities and access to expected sources of capital will be sufficient to meet our existing commitments for a period of at least twelve months from the date of this report. Any reduction in demand for our products or our ability to manage our production facilities may result in lower cash flows from operations which may impact our ability to make investments and may require changes to our growth plan.

To fund future growth, we anticipate seeking additional capital through equity or debt financings. The amount and timing of our future funding requirements will depend on many factors, including the pace and results of our project development efforts. We may be unable to obtain any such additional financing on acceptable terms or at all. Our ability to access capital when needed is not assured and, if capital is not available when, and in the amounts, needed, we could be required to delay, scale back or abandon some or all of our development programs and other operations, which could materially harm our business, prospects, financial condition, and operating results.

As of March 31, 2023, we had total indebtedness excluding deferred financing costs of \$151.3 million in principal amount which primarily consists of \$29.1 million under the Convertible Note Payable, \$99.2 million under the OPAL Term Loan and \$23.0 million under Sunoma Loan.

As part of our operations we have arrangements for office space for our corporate headquarters under the Administrative Services Agreement as well as operating leases for office space, warehouse space, and our vehicle fleet.

We intend to make payments under our various debt instruments when due and pursue opportunities for earlier repayment and/or refinancing if and when these opportunities arise.

See Note 7. *Borrowings*, to our condensed consolidated financial statements.

## Cash Flows

The following table presents the Company's cash flows for the three months ended March 31, 2023 and 2022:

<i>(in thousands)</i>	Three Months Ended March 31,	
	2023	2022
Net cash provided by (used in) from operating activities	\$ 4,171	\$ (8,985)
Net cash (used in) from investing activities	(8,894)	(22,509)
Net cash (used in) provided by from financing activities	(32,676)	42,406
Net increase in cash, restricted cash, and cash equivalents	\$ (37,399)	\$ 10,912

### *Net Cash Provided by Operating Activities*

Net cash provided by operating activities for the three months ended March 31, 2023 was \$4.2 million, an increase of \$13.2 million compared to net cash used in operations of \$9.0 million for the three months ended March 31, 2022. The increase in cash provided by operating activities was attributable to positive working capital changes primarily from decrease in accounts receivable, related party offset by an increase in net operating losses year over year.

### *Net Cash Used in Investing Activities*

Net cash used in investing activities for the three months ended March 31, 2023 was \$8.9 million, a decrease of \$13.6 million compared to the \$22.5 million used in investing activities for the three months ended March 31, 2022. This was primarily driven by decrease in cash invested in short term investments of \$28.2 million and distribution from equity method investment of \$1.9 million offset by payments made for the construction of various RNG generation and dispensing facilities of \$38.8 million.

### *Net Cash Provided by Financing Activities*

Net cash used in financing activities for the three months ended March 31, 2023 was 32.7 million, a decrease of \$75.1 million compared to the \$42.4 million provided from financing activities for the three months ended March 31, 2022. This was primarily driven by repayments of \$23.2 million of Senior Secured Facility, \$6.9 million of the OPAL Term Loan, \$16.4 million for repurchase of shares from the exercise of the put option offset by proceeds from OPAL Term Loan of \$10.0 million.

### *Capital expenditures and other cash commitments*

We require cash to fund our capital expenditures, operating expenses and working capital and other requirements, including costs associated with fuel sales; outlays for the design and construction of new Fueling Stations and RNG production facilities; debt repayments and repurchases; maintenance of our electrification production facilities supporting our operations, including maintenance and improvements of our infrastructure; supporting our sales and marketing activities, including support of legislative and regulatory initiatives; any investments in other entities; any mergers or acquisitions, including acquisitions to expand our RNG production capacity; pursuing market expansion as opportunities arise, including geographically and to new customer markets; and to fund other activities or pursuits and for other general corporate purposes.

As of March 31, 2023, we have budgeted for \$279.3 million in capital expenditures for the next 12 months, of which \$197.5 million is committed under existing contracts. These expenditures do not include any expected contributions from our joint venture and non-controlling interest partners and primarily relate to our development of new RNG facilities and the purchase of equipment used in our Fueling Station services and Renewable Power operations.

In addition to the above, we also have lease commitments on our vehicle fleets and office leases and quarterly amortization payment obligations under various debt facilities. Please see Note 7. *Borrowings* and Note 8. *Leases* to our condensed consolidated financial statements for additional information.

We plan to fund these expenditures primarily through cash on hand, cash generated from operations, and cash from the Business Combination and PIPE Investment.

### Item 3. Quantitative and Qualitative Disclosures About Market Risk

The Company is not required to provide the information required by this Item as it is a “smaller reporting company.”

### Item 4. Controls and Procedures

#### *Evaluation of Disclosure Controls and Procedures*

Our management, with the participation of our Co-Chief Executive Officers and our Chief Financial Officer (our co-principal executive officers and principal financial officer, respectively), evaluated, as of the end of the period covered by this Quarterly Report on Form 10-Q, the effectiveness of our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act. The term “disclosure controls and procedures,” as defined in the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized, and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosures. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Based on that evaluation of our disclosure controls and procedures as of March 31, 2023, our Co-Chief Executive Officers and Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were ineffective for the period covered by this report based on the material weakness in our internal control over financial reporting described below.

#### *Previously Reported Material Weakness*

In connection with the preparation and audit of our consolidated financial statements for each of the years ended December 31, 2022 and 2021, material weaknesses were identified in our internal control over financial reporting. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of its annual or interim consolidated financial statements will not be prevented, or detected and corrected, on a timely basis.

The material weaknesses identified were as follows:

- There is a lack of an adequate control environment, including internal communications, to allow for timeliness of reviews for the accounting and disclosures of significant and unusual transactions and contracts;
  - We did not have timely and effective reviews over standard account reconciliations and related accounting analysis which resulted in various audit adjustments that we corrected; and
  - Review controls over application of ASC-606 were not designed and implemented appropriately during the current year.
- We performed additional analysis and procedures with respect to accounts impacted by the material weakness in order to conclude that our consolidated financial statements in this report, and for the three months ended March 31, 2023 and 2022, are fairly presented, in all material respects, in accordance with GAAP.

Under “*Changes in Internal Controls over Financial Reporting*” and “*Remediation Plans*” below, we describe our remediation plan to address the identified material weakness.

#### *Management's Quarterly Report on Internal Control over Financial Reporting*

This Quarterly Report on Form 10-Q does not include a report of management's assessment regarding internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) or an attestation

report of our independent registered public accounting firm due to a transition period established by rules of the SEC for newly public companies.

#### *Changes in Internal Controls over Financial Reporting*

The design and implementation of internal controls over financial reporting for the Company subsequent to the Business Combination has required and will continue to require significant time and resources from management and other personnel. The changes to our internal control over financial reporting commenced during the period covered by this report and after will materially affect, or are reasonably likely to materially affect, our internal control over financial reporting by establishing new controls and procedures appropriate to the operating business we have become as a result of the Business Combination.

#### *Remediation Plans*

We have developed and begun executing on a plan to remediate these material weaknesses. During 2022, we remediated one material weakness from the prior year. We hired additional accounting and financial reporting personnel with appropriate technical accounting knowledge and public company experience in financial reporting; we continue to implement formal processes, policies and procedures supporting our financial close process, including creating standard balance sheet reconciliation templates and journal entry controls; and designing and implementing controls to formalize roles and review responsibilities to align with our team's skills. Additionally, we strengthened our controls around segregation of duties, access controls in our financial reporting system and disabled the functionality for the same employee to prepare and post journal entries. We have implemented controls to ensure that account reconciliations are reviewed by an independent person who has technical knowledge and financial reporting competence.

While we believe these efforts are likely to remediate the material weaknesses identified, we may not be able to complete our evaluation, testing or any required remediation in a timely fashion, or at all. The effectiveness of our internal control over financial reporting is subject to various inherent limitations, including cost limitations, judgments used in decision making, assumptions about the likelihood of future events, the possibility of human error and the risk of fraud. If we are unable to remediate the material weaknesses identified, our ability to record, process and report financial information accurately, and to prepare financial statements within the time periods specified by the forms of the SEC, could be adversely affected which, in turn, may adversely affect our reputation and business and the market price of our securities, including the Class A common stock. In addition, any such failures could result in litigation or regulatory actions by the SEC or other regulatory authorities, loss of investor confidence, delisting of our securities and harm to our reputation and financial condition, or diversion of financial and management resources from the operation of our business.

## Part II - Other Information

### Item 1. Legal Proceedings

From time to time, we are involved in various legal proceedings, lawsuits and claims incidental to the conduct of our business, some of which may be material. Our businesses are also subject to extensive regulation, which may result in regulatory proceedings against us. We do not believe that the outcome of any of our current legal proceedings will have a material adverse impact on our business, financial condition and results of operations.

### Item 1A. Risk Factors

There have been no material changes from the "Risk Factors" previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022, filed with the SEC on March 29, 2023. The risks described in the Annual Report on Form 10-K for the year ended December 31, 2022 are not the only risks facing us. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition or future results.

### Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

#### Sales of Unregistered Securities

None.

#### Issuer Purchases of Equity Securities

During the three months ended March 31, 2023, we repurchased the following shares of our Class A common stock:

Period	Total Number of Shares Purchased <sup>(1)</sup>	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number(or Approximate Dollar Value) of Shares that May Yet Be Purchased under the Plans or Programs
January 1, 2023 - January 31, 2023	1,635,783	\$ 10.02	—	—
February 1, 2023 - February 28, 2023	—	—	—	—
March 1, 2023 - March 31, 2023	—	—	—	—
Total	1,635,783	10.02	—	—

<sup>(1)</sup> On January 23, 2023, pursuant to the terms of a forward purchase agreement with Meteora Capital Partners ("Meteora"), Meteora exercised its option to sell back 1,635,783 shares of Class A common stock to the Company. The Company purchased the shares at a purchase price of \$10.02 per share per the terms of the forward purchase agreement.

### Item 3. Defaults Upon Senior Securities

None.

### Item 4. Mine Safety Disclosures

Not applicable.

**Item 5. Other Information**

None.

**Item 6. Exhibits**

Exhibit Index

Exhibit Number	Description
3.1*	<a href="#">Restated Certificate of Incorporation of OPAL Fuels Inc. (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K/A filed by the Company on August 10, 2022).</a>
3.2*	<a href="#">Bylaws of OPAL Fuels Inc. (incorporated by reference to Exhibit 3.2 to the Current Report on Form 8-K filed by the Company on July 27, 2022).</a>
10.1*	<a href="#">Securities Purchase Agreement, dated March 30, 2023, by and between OPAL Fuels Inc. and purchasers named therein (incorporated by reference to Exhibit 10.1 to the registrant's Current Report on Form 8-K filed with the SEC on April 5, 2023).</a>
10.2†#	<a href="#">Landfill Gas Purchase and Sale Agreement dated April 13, 2023 (effective as of March 13, 2023).</a>
10.3†#	<a href="#">Piggyback Agreement for Landfill Gas Purchase Agreement dated May 2, 2023.</a>
31.1	<a href="#">Certification of Co-Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
31.2	<a href="#">Certification of Co-Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
31.3	<a href="#">Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
32.1**	<a href="#">Certification of Co-Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
32.2**	<a href="#">Certification of Co-Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
32.3**	<a href="#">Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
101.INS	Inline XBRL Instance Document
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

\* Previously filed.

\*\* This certification is deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (Exchange Act), or otherwise subject to the liability of that section, nor shall it be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act.

† Certain of the schedules and exhibits to this exhibit have been omitted pursuant to Regulation S-K Item 601(a)(5). The Company agrees to furnish supplementally a copy of any omitted schedule or exhibit to the SEC upon its request.

# Certain confidential information contained in this document has been redacted in accordance with Item 601(b)(10)(iv) of Regulation S-K.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: May 15, 2023

**OPAL Fuels Inc.**

By: /s/ Jonathan Maurer  
Name: Jonathan Maurer  
Title: Co- Chief Executive Officer

**OPAL Fuels Inc.**

By: /s/ Adam Comora  
Name: Adam Comora  
Title: Co- Chief Executive Officer

**OPAL Fuels Inc.**

By: /s/ Ann Anthony  
Name: Ann Anthony  
Title: Chief Financial Officer

PORTIONS OF INFORMATION CONTAINED IN THIS AGREEMENT HAVE BEEN EXCLUDED FROM THIS AGREEMENT BECAUSE THEY ARE BOTH NOT MATERIAL AND THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. EXCLUDED INFORMATION IS MARKED AS [\*\*\*] BELOW

**LANDFILL GAS PURCHASE AND SALE AGREEMENT**

**Between**

**WASTE MANAGEMENT OF ILLINOIS, INC.**

**And**

**COTTONWOOD RNG LLC**

**Dated as of March 13, 2023**



## LANDFILL GAS PURCHASE AND SALE AGREEMENT

This LANDFILL GAS PURCHASE AND SALE AGREEMENT ("Agreement") is made and dated as of March 13, 2023 ("Effective Date"), between Waste Management of Illinois, Inc. ("Seller"), a Delaware corporation, and Cottonwood RNG LLC ("Purchaser"), a Delaware limited liability company.

### RECITALS

**WHEREAS**, Seller owns and operates the Landfill;

**WHEREAS**, LFG (as defined below) is produced within the Landfill as a by-product of the decomposition of refuse;

**WHEREAS**, Seller owns a system of wells, pipes, and ancillary equipment at the Landfill in order to collect and extract LFG from the Landfill (the "Collection System");

**WHEREAS**, Purchaser's Facility (as defined below) will be constructed on a portion of the real property where the Landfill is located, which real property Purchaser intends to lease from Seller or its Affiliate pursuant to a Lease Agreement executed on the Effective Date;

**WHEREAS**, Purchaser desires to purchase LFG collected by the Collection System to process in Purchaser's Facility; and

**WHEREAS**, Seller and Purchaser desire to enter into this Agreement for the sale and purchase of LFG collected and extracted from the Landfill for processing at Purchaser's Facility, on the terms and conditions set forth below.

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

### Article I DEFINITIONS

Section 1.1 Definitions. When used in this Agreement, the following terms shall have the meanings specified below:

"AAA" has the meaning set forth in Section 13.3.3.

"AAA Rules" has the meaning set forth in Section 13.3.3.

"Affiliate" means, of any Person, means a Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Person specified, provided that notwithstanding anything in this Agreement to the contrary, Seller is not an Affiliate of Purchaser and vice versa. For purposes of this definition, the direct or indirect ownership of over fifty percent (50%) of the outstanding voting securities of an entity, or the right to receive over fifty percent (50%) of the profits or earnings of an entity shall be deemed to constitute control. Such other relationships as in fact results in actual control over the management, business and affairs of an entity, shall also be deemed to constitute control.

"Agreement" means this Landfill Gas Purchase and Sale Agreement, including all Schedules and Attachments attached hereto, and any amendments hereto.

“Applicable Law” means any law (including common law), statute, act, decree, ordinance, rule, directive (to the extent having the force of law), tariff, order, treaty, Permit, code or regulation or any binding interpretation of any of the foregoing, as enacted, issued or promulgated by any Governmental Authority, including all amendments, modifications, extensions, replacements or re-enactments thereof, in each case applicable to and binding upon such Person or any of its properties or to which such Person or any of its property is subject.

“Authorized Representative(s)” means Seller’s Authorized Representative or Purchaser’s Authorized Representative, or both, as the context requires.

“Billing Year” means each calendar year during the Term of this Agreement, except that the (a) first Billing Year shall commence on the Delivery and Purchase Commencement Date and end on the first December 31<sup>st</sup> following such date and (b) the last Billing Year shall end at the end of the Term, or if applicable, upon the earlier termination of this Agreement.

“Books and Records” has the meaning set forth in Section 5.3.1.

“Business Day” means a Day other than a Saturday, Sunday, or other Day on which banks in Houston, Texas are authorized or required to close.

“Collection Improvement Proposals” has the meaning set forth in Section 4.6.2.

“Collection System” has the meaning set forth in the recitals hereto.

“Condensate” means the liquid resulting from the condensation of water generated from the operation of Purchaser’s Facility.

“Conditions Precedent to Seller’s Delivery Obligations” shall have the meaning specified in Section 3.6.

“Day” means each twenty-four-hour period beginning at 12:01am in the time zone where the Landfill is located.

“Delivery and Purchase Commencement Date” means the period of time commencing upon the achievement of the Conditions Precedent to Seller’s Delivery Obligations, as memorialized in a certificate issued by a duly authorized officer of Purchaser.

“Delivery Point” means the point of interconnection between facilities of the Seller and Purchaser’s Facility.

“Disclosing Party” has the meaning set forth in Section 13.15 of this Agreement.

“Dispute” has the meaning set forth in Section 13.3.1.

“Effective Date” has the meaning set forth in the preamble of this Agreement.

“Environmental Attributes” means any and all credits, benefits, emissions reductions, offsets, incentive payments, and allowances of any kind or nature, howsoever entitled, attributable to the environmental and renewable attributes associated with the processing or utilization of LFG and the production of Renewable Natural Gas or any other product, including the production and delivery of Renewable Natural Gas for use as a renewable transportation fuel or for any other purpose intended as renewable energy or for reduction of air emissions of any kind or nature or for any other environmental benefit of any kind or nature, in each case whether now existing or later

arising. Environmental Attributes currently include, for example: (i) renewable energy credits created as a result of generating electricity from a renewable feedstock, (ii) renewable identification numbers or low carbon fuel standard credits, (iii) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), methane (CH4) and other greenhouse gases (GHGs) defined in 40 CFR 98.6 or that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere, and (iv) the reporting rights to any of these Environmental Attributes or avoided emissions; (v) Renewable Identification Numbers ("RINS"); and (vi) Low Carbon Fuel Standard or equivalent credits issued by any state ("LCFS").

"Environmental Law" means any Applicable Law which pertains to human health and safety (to the extent related to the handling of, or exposure to, any Hazardous Substance), pollution or protection of the environment or natural resources (including but not limited to soil, land surface or subsurface strata, ambient air, surface water or groundwater), or the use, production, generation, handling, transportation, treatment, testing, recycling, storage, disposal, discharge, release, or cleanup of Hazardous Substances.

"Event of Default" has the meaning set forth in Section 9.1.

"Extension Fee" has the meaning set forth in Section 9.1(h)(ii).

"Force Majeure Event" has the meaning set forth in Section 10.1.

"GAAP" means United States generally accepted accounting principles consistently applied.

"Governmental Authority" means any foreign, federal, state, county, municipal, district, or other local governmental entity, tribal, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, court, tribunal, arbitrating body or other governmental authority.

"Gross Revenues" means the amount of cash received (net of transaction costs including dispensing fees) by Purchaser in a calendar month arising from the sale of production of RNG from LFG supplied by Seller to Purchaser at Purchaser's Facility, including, without duplication, from (i) the sale by Purchaser of Environmental Attributes associated with RNG produced at Purchaser's Facility, and (ii) the commodity sale of Products produced at Purchaser's Facility.

"Hazardous Substance" means any material, substance or waste that is subject to regulation, investigation, control, or remediation under any Environmental Law, including any material, substance or waste that is defined as a "hazardous material," "hazardous substance," "hazardous waste," "toxic waste" or "toxic substance."

"Indemnified Party" has the meaning set forth in Section 11.2.1.

"Indemnifying Party" has the meaning set forth in Section 11.2.1.

"Independent Engineer" has the meaning set forth in Section 13.3.3.

"Landfill" has the meaning set forth in the Lease Agreement.

"Landfill Operations" has the meaning set forth in Section 2.1.6 of the Lease Agreement.

“Lease Agreement” means that Lease Agreement by and between Purchaser and Seller (or an Affiliate of Seller) pursuant to which Purchaser leases from Seller (or an Affiliate of Seller) the real property where Purchaser’s Facility are or will be located.

“Lender” has the meaning set forth in Section 13.14.

“LFG” or “Landfill Gas” means the gases and their constituents, including methane, carbon dioxide and other gases produced by the decomposition of matter within the Landfill, above the liner on top of which the solid waste is deposited and below the cap covering the solid waste deposited at the Landfill, as such landfill gas may exist from time to time.

“Losses” has the meaning set forth in Section 11.1.1.

“MMBtu” means one million (1,000,000) British Thermal Units.

“Notice” has the meaning set forth in Section 13.1.

“Outside Date” has the meaning set forth in Section 9.1(h).

“Party” shall mean Seller or Purchaser, as applicable, and “Parties” shall mean both Seller and Purchaser.

“Party Representative Negotiations” has the meaning set forth in Section 13.3.1.

“Permit” means all approvals, rulings, certifications, judgments, decrees, consents, waivers, exemptions, variances, franchises, orders, permits, authorizations, licenses, filings, tariffs and rates which are required under Applicable Law to be obtained or maintained by either Party in connection with the performance of its obligations pursuant to this Agreement.

“Person” means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization, or governmental entity or any department or agency thereof.

“Personnel” means, with respect to a Person, the employees, officers, directors, agents, representatives, partners, consultants, engineers, invitees, subcontractors and vendors of (a) such Person, (b) any of its Affiliates, or (c) any of its subcontractors or vendors of any tier.

“Products” means Environmental Attributes, RNG, and diesel, naphtha, wax and other hydrocarbon products produced (directly or indirectly) by Purchaser, Lessee, or their Affiliates from the Recovered Landfill Gas.

“Punitive Damages” has the meaning set forth in Section 13.3.3(f).

“Purchase Obligation” has the meaning set forth in Section 4.1.2.

“Purchaser’s Facility” means all facilities that are engineered, designed, constructed and installed on Seller’s (or its Affiliates’) property by and/or for Purchaser, as approved by Seller pursuant to Section 7.2 of the Lease Agreement.

“Purchaser Persons” has the meaning set forth in Section 11.1.2.

“Purchaser’s Permits” has the meaning set forth in Section 3.3.1.

“Quarterly Reviews” has the meaning set forth in Section 4.6.2.

“Receiving Party” has the meaning set forth in Section 13.15 of this Agreement.

“RNG” or “Renewable Natural Gas” means natural gas processed from Landfill Gas which meets the pipeline quality standards for natural gas for the pipeline into which such Renewable Natural Gas is delivered by Purchaser.

“Royalty” means [\*\*\*] percent ([\*\*\*]%) of [\*\*\*] received by Purchaser in the applicable calendar month.

“Seller” has the meaning set forth in the preamble of this Agreement.

“Seller Persons” has the meaning set forth in Section 11.1.1.

“Substantial Completion” means (i) the Purchaser’s Facility has been constructed in accordance with the applicable design requirements, except for punch list work which is not necessary to safely run the Purchaser’s Facility, (ii) all pre-operational testing and startup activities, have been performed successfully, and (iii) the Purchaser’s Facility is sufficiently complete such that it can be operated for its intended purpose.

“Taxes” means:

(a) any taxes, customs, duties, charges, fees, levies, penalties or other assessments imposed by any federal, state, local or foreign taxing authority, including, but not limited to, income, gross receipts, windfall profit, severance, real and personal property, production, sales, use, license, excise, franchise, net worth, employment, occupation, payroll, withholding, social security, alternative or add-on minimum, ad valorem, transfer, stamp, or environmental tax, or any other tax, custom, duty, fee (including any franchise fee or similar fee), levy or other like assessment or charge of any kind whatsoever, together with any interest, penalty, addition to tax, or additional amount attributable thereto; and

(b) any liability for the payment of amounts with respect to payment of a type described in clause (a), including as a result of being a member of an affiliated, consolidated, combined or unitary group, as a result of succeeding to such liability as a result of merger, conversion or asset transfer or as a result of any obligation under any tax sharing arrangement or tax indemnity agreement.

“Term” means that period of time described in Article II.

“Utility” means the natural gas utility, whether local distribution company or interstate pipeline, to which the RNG produced by Purchaser’s Facility is injected for the delivery to third parties.

#### Section 1.2 Construction of Certain Terms and Phrases.

1.1.1. All exhibits, annexes, and schedules attached to this Agreement are incorporated herein by this reference and made a part hereof for all purposes. References to sections, exhibits, annexes and schedules are, unless otherwise indicated, references to sections, exhibits, annexes and schedules to this Agreement. References to a section shall mean the referenced section and all sub-sections thereof;

1.1.2. As used in this Agreement and in any certificate or other documents made or delivered pursuant hereto or thereto, financial and accounting terms not defined in this Agreement or in any such certificate or other document, and financial and accounting terms partly defined in this Agreement or in any such certificate or other document to the extent not defined, will have the respective meanings given to them under GAAP. To the extent that the definitions of financial and accounting terms in this Agreement or in any such certificate or other document are inconsistent with the meanings of such terms under GAAP, the definitions contained in this Agreement or in any such certificate or other document will control;

1.1.3. The words “hereof”, “herein”, “hereunder”, and words of similar import when used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement. Section references contained in this Agreement are references to Sections in this Agreement unless otherwise specified. The terms “includes” or “including” will mean “including without limitation;”

1.1.4. The definitions contained in this Agreement are applicable to the singular, as well as the plural forms of such terms and to the masculine, as well as to the feminine and neuter genders of such terms;

1.1.5. Unless the context otherwise requires, the capitalized terms used in this Agreement shall have the definitions set forth in this Article I;

1.1.6. Any capitalized term used but not defined in this Agreement shall have the meaning given to such term in the Lease Agreement. Any term not defined in this Article I or elsewhere in this Agreement (including an amendment or exhibit) or in the Lease Agreement that is used in this Agreement, shall have its plain meaning in common English usage provided that words and abbreviations having well-known meaning in the United States LFG production industry shall have those meanings;

1.1.7. Any agreement or instrument defined or referred to herein or in any instrument or certificate delivered in connection herewith means (unless otherwise indicated herein) such agreement or instrument as from time to time amended, amended and restated, modified or supplemented and includes (in the case of agreements or instruments) references to all attachments thereto and instruments incorporated therein;

1.1.8. Reference to a Governmental Authority shall include an entity succeeding to its functions;

1.1.9. All documents required to be provided under this Agreement shall be in English;

1.1.10. References to any statute, code or statutory provision are to be construed as a reference to the same as it exists as of the Effective Date, and includes references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

1.1.11. All monetary amounts contained in this Agreement refer to the currency of the United States.

**Article II**  
**TERM**

—The Term of this Agreement shall commence on the Effective Date and shall continue in effect for a period of twenty-five (25) years from the first Day of the month following the Delivery and Purchase Commencement Date, unless terminated earlier pursuant to the terms of this Agreement (the “Term”).

**Article III**  
**CONSTRUCTION, TESTING AND START-UP OBLIGATIONS**

Section 1.1 Cooperation Regarding Construction, Testing and Start-Up Obligations. The Parties shall cooperate in good faith with each other in connection with the construction, testing and startup tasks required to perform the Parties’ obligations hereunder.

Section 1.2 Timeline for Construction. An indicative timeline for the completion of the construction, testing and start-up tasks is set forth in Exhibit A.

Section 1.3 Permits.

1.1.1. Purchaser Permits. Except for any (a) Designated WM Permits (as defined in the Lease Agreement), Purchaser shall, at its sole cost take all steps reasonably necessary to obtain and maintain in effect all Permits required in connection with the performance of its obligations hereunder, including without limitation an air Permit pursuant to §39.5 of the Illinois Environmental Protection Act (§415 Illinois Compiled Statutes 5/1 et. seq.) (collectively, “Purchaser’s Permits”).

1.1.2. Cooperation Regarding Permits. Upon request, Seller shall reasonably assist Purchaser in connection with obtaining any Purchaser’s Permits with all of Seller’s costs related to obtaining such Purchaser’s Permits (including, without limitation, Seller’s reasonable legal fees and expenses) to be borne by Purchaser;

Section 1.4 Compliance with Laws. During the Term, Purchaser shall comply with all Applicable Laws in the performance of its obligations under this Agreement.

Section 1.5 Design, Construction and Operation of Purchaser’s Facility. Purchaser (or its Affiliate) shall design and build Purchaser’s Facility in accordance with Sections 7.1 and 7.2 of the Lease Agreement. During the Term, Purchaser shall operate (or cause the operation of) Purchaser’s Facility in compliance with all Applicable Laws, authorizations, applicable Purchaser contracts, and Section 7.3 of the Lease Agreement.

Section 1.6 Conditions Precedent to Seller’s LFG Delivery Obligations. Seller’s obligation to deliver LFG pursuant to Section 4.1.2 of this Agreement is subject to the satisfaction or waiver by Seller of each of the conditions set forth in this Section 3.6 (the “Conditions Precedent to Seller’s Delivery Obligations”). Purchaser shall provide reasonable documentation to support each certification provided to Seller as described herein.

1.1.1. Purchaser Permits. Purchaser shall have certified to Seller that all Purchaser Permits have been obtained and are in full force and effect.

1.1.2. Purchaser’s Facility. (a) Purchaser has provided Seller with a certificate issued by Purchaser’s contractor and accepted by Purchaser stating that Purchaser’s Facility achieved Substantial Completion, (b) Purchaser’s Facility is able to produce RNG that can be

delivered to a Utility, and (c) Purchaser's Facility is able to receive and process LFG delivered by Seller as contemplated by this Agreement.

1.1.3. Rental Payment. Purchaser (or its Affiliate) shall have paid Seller (or its Affiliate) all rental payments required pursuant to Section 6.1(a) of the Lease Agreement.

#### **Article IV LFG DELIVERY AND PURCHASE OBLIGATIONS**

##### **Section 1.1 Purchase and Delivery Obligations.**

1.1.1. Prior to Delivery and Purchase Commencement Date. During the period prior to the Delivery and Purchase Commencement Date, Seller shall make available to Purchaser at the Delivery Point and sell to Purchaser all LFG (together with all associated Environmental Attributes) collected from the Landfill up to such amounts required by Purchaser for the purpose of testing the Purchaser's Facility, and subject to Section 4.4, Purchaser shall accept and purchase all LFG (together with all associated Environmental Attributes) delivered to Purchaser at the Delivery Point up to such amounts required by Purchaser for the purpose of testing the Purchaser's Facility.

1.1.2. LFG Delivery and Purchase Obligations. Upon and following the Delivery and Purchase Commencement Date, subject to Sections 4.2 and 4.3, Seller shall make available to Purchaser at the Delivery Point and sell to Purchaser all LFG (together with all associated Environmental Attributes) collected from the Landfill, and subject to Section 4.4, Purchaser shall accept and purchase all LFG (together with all associated Environmental Attributes) delivered to Purchaser at the Delivery Point up to one hundred percent (100%) of the design capacity of Purchaser's Facility (the "Purchase Obligation"). Seller shall have the right at all times to use or consume any quantity of LFG if Seller determines in its sole judgment that such use or consumption is necessary for compliance with Applicable Laws or Permits, without liability to Purchaser even if such use or consumption of LFG reduces the quantity or quality of LFG delivered to Purchaser pursuant to this Agreement.

Section 1.2 Excused LFG Delivery. Seller's delivery and sale obligation shall be excused to the extent prevented due to (a) a Force Majeure Event; (b) an act or omission of Purchaser, or (c) Seller's use, consumption, or destruction of LFG as permitted pursuant to Sections 4.1.2 and 4.4 and if necessary to comply with Applicable Law. Any such interruption or reduction of delivery of LFG shall be discontinued as soon as reasonably practicable.

Section 1.3 Excused Interruption of LFG Acceptance Obligation. If Purchaser fails to accept LFG (a) due to a Force Majeure Event; (b) due to an act or omission of Seller in violation of this Agreement; or (c) methane concentrations of LFG falling below forty-five percent (45%) for more than one Day as averaged over no less than a consecutive twenty-four hour period (as measured using a mutually agreed upon device), then Purchaser's interruption of its acceptance and purchase of LFG shall be excused. Any such interruption in the purchase of LFG or reduction in quantity of LFG purchased shall be discontinued as soon as reasonably practicable.

Section 1.4 Diversion of LFG Not Accepted by Purchaser. Purchaser's Facility shall be designed to divert from the Delivery Point and return to Seller any LFG that Purchaser does not accept. Seller shall have no obligation to Purchaser with respect to any such LFG after diversion of such LFG, and Seller shall be free to destroy, sell, process, consume or take any other action with respect to such LFG that Purchaser does not accept, including using such LFG as fuel to generate electric energy or renewable fuel, without liability or obligation to Purchaser.

##### **Section 1.5 Title to Landfill Gas.**



1.1.1. Warranty of Title. Seller represents and warrants that it will have good title to all LFG delivered hereunder, free and clear of liens and encumbrances.

1.1.2. Transfer of Title. Title to, and control and possession of LFG sold and purchased hereunder shall transfer to Purchaser at the Delivery Point free and clear of all liens and encumbrances.

1.1.3. Indemnity. Subject to the provisions of Article XI:

(a) Seller assumes full responsibility and liability for and shall indemnify, and hold harmless Purchaser and any Affiliate of Purchaser and any such Affiliate's and Purchaser's directors, officers, partners, members, shareholders, employees or agents, harmless from and against any and all Losses resulting from and/or caused by the LFG prior to the Delivery Point, except to the extent resulting from Purchaser's negligence, willful misconduct, violation of Applicable Law, or fraud.

(b) Purchaser assumes full responsibility and liability for and shall indemnify, and hold harmless Seller and any Affiliate of Seller and any such Affiliate's and Seller's directors, officers, partners, members, shareholders, employees or agents, harmless from and against any and all Losses resulting from and/or caused by the LFG after the Delivery Point, except to the extent resulting from Seller's gross negligence, willful misconduct, violation of Applicable Law or fraud.

(c) The indemnities set forth in this Section 4.5.3 shall survive the termination or expiration of this Agreement.

#### Section 1.6 Seller O&M.

1.1.1. Operation of Collection System. Seller shall operate and maintain the Collection System in proper working order and shall be responsible for installation, operation, and compliance of the Collection System with all Applicable Laws and applicable Permits. In the event of damage to the Collection System, Seller shall repair such damage as promptly as practicable.

1.1.2. Improvements to Collection System. Seller shall make improvements to the Collection System as required by Applicable Laws and Permits. Seller and Purchaser shall meet quarterly to review operational, compliance, and performance aspects of the Collection System ("Quarterly Reviews"). During these Quarterly Reviews, Purchaser shall be entitled to present proposals for modifications to the Collection System that are designed to improve the performance of the Purchaser's Facility ("Collection Improvement Proposals") at Purchaser's expense, and that do not impair Seller's ability to operate and maintain the Collection System in compliance with all Applicable Laws and applicable Permits. Seller shall use commercially reasonable efforts to incorporate the Collection Improvement Proposals in its planning for construction or operation and maintenance of the Collection System. Seller shall be responsible for all costs and expenses related to improvements to the Collections System, provided, however, that Purchaser shall promptly reimburse Seller for reasonable documented expenses related to implementation of Collection Improvement Proposals that were carried out per prior written agreement between Purchaser and Seller.

Section 1.7 Affiliate Sales. Purchaser shall (a) at all times, use commercially reasonable efforts to maximize the value of the LFG, Renewable Natural Gas, Environmental Attributes, and any other Products, and (b) not enter into any contracts for the sale of RNG or Product with any Affiliate of Purchaser except on arm's length terms.

**Article V**  
**PAYMENT**

Section 1.1 **Payments.** Purchaser shall pay the Royalty to Seller pursuant to the remaining provisions of this Article V.

Section 1.2 **Billing and Payment.**

1.1.1. **Metering and Reporting.** Purchaser shall cause its metering devices connected to the Utility to be read on the last Business Day of the month, and shall furnish Seller with an report on or before the fifteenth (15<sup>th</sup>) Day of the immediately following month. The report shall state the:

(a) quantity of LFG delivered to Purchaser at the Delivery Point;

(b) quantity of RNG produced at Purchaser's Facilities;

(c) the total RNG delivered from Purchaser's Facility to the Utility (in MMBtus based on the high heat value of the RNG) during the immediately preceding month and for the year-to-date, updated each month to show cumulative MMBtus delivered and Gross Revenues for which Seller has been previously compensated; and

(d) all Environmental Attributes produced, earned, or otherwise generated as a result of the production or sale of RNG from Purchaser's Facility during the immediately preceding month, the financial compensation associated with RNG produced and/or sold for each month as well as a then current inventory report showing the following Environmental Attributes categories: (i) generated, (ii) sold, and (iii) remaining on deposit. Such inventory report shall be updated each month. The report shall include sufficient detail as to all forms of economic consideration received by Purchaser from Purchaser's sale of RNG, RINs, LCFS, and all other Environmental Attributes and Products, including, without limitation, all supporting documentation which may be requested by Seller to support such numbers. The Parties acknowledge and agree that Purchaser shall sell the Environmental Attributes in its discretion, but, in any event, such sale shall occur no later than one hundred and eighty (180) Days following the generation of such Environmental Attributes.

1.1.2. **Payment.** The report shall be accompanied by payment of the Royalty, as applicable, due to Seller for the applicable month, and all other fees or payments due under this Agreement.

1.1.3. **Late Payment.** Any payment not timely made by Purchaser under this Agreement shall accrue late interest at the lesser of (a) two and one-half percent (2.5%) per month, and (b) the highest rate permitted by law from the date due until such amounts are paid.

Section 1.3 **Errors in Billing.**

1.1.1. **Books and Records.** Purchaser shall keep full and detailed books, logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and any other pertinent documents as may be required under Applicable Law in connection with this Agreement, and as necessary to fully and accurately document, evidence, and justify each element of the Royalty and all variables used to calculate the same and validate the total amount of LFG delivered and Products generated ("Books and Records"). Purchaser shall maintain all such Books and Records in accordance with GAAP and shall retain all such Books and

Records for a minimum period of six years after payment of the applicable Royalty payment to which they relate, or such greater period of time as may be required under Applicable Law.

1.1.2. Audits. Upon reasonable notice, Seller and any of its representatives or invitees may audit or have audited Purchaser's Books and Records. When requested by Seller, Purchaser shall provide the auditors and Seller's representatives with reasonable access to, and reasonably requested copies of, any and all Books and Records.

1.1.3. Errors in Billing. If either Party hereto shall find after the date of any payment hereunder that there has been an overcharge or undercharge, the Party finding the error shall promptly notify the other Party in writing within twelve (12) months of the billing error. In such case, a Party owing an amount to the other Party due to the error shall pay the amount owed no later than thirty (30) Days after the Parties agree in good faith on the error and related amount owed.

## **Article VI OPERATIONS AND MAINTENANCE**

Section 1.1 Applicability of Article VI. Purchaser shall provide or arrange for all necessary maintenance, repairs and replacements for Purchaser's Facility in accordance with the terms of the Lease Agreement, and this Article VI.

Section 1.2 Control of Negative Pressure. For periods where Purchaser's Facility is accepting LFG hereunder, Seller shall advise Purchaser of the negative pressure at which Purchaser's Facility should operate. If Seller determines that Purchaser's Facility are creating negative pressure at the Delivery Point that may adversely affect Seller's compliance with this Agreement and Applicable Laws, Seller shall so notify Purchaser and Purchaser shall within twelve (12) hours, adjust the pressure to meet Seller's requirements. The Parties agree that the first priority and primary goal in setting the operating pressure of Purchaser's Facility is the maintenance of compliance with Applicable Law including without limitation the prevention of nuisance odors.

Section 1.3 Interruptions in Delivery or Purchase of Landfill Gas; No Warranty.

1.1.1. Notice of Interruption of Delivery or Purchase of Landfill Gas. Each Party shall immediately contact the other Party verbally, followed promptly with Notice in writing, in the event of any unanticipated interruption in the delivery or purchase of LFG hereunder.

1.1.2. Scheduled Outages. The Parties shall coordinate their scheduled outages and each Party shall provide written Notice to the other Party of a scheduled outage at least seven (7) Days in advance of the planned commencement of the outage when possible or otherwise at the earliest possible time before the outage commences; provided that scheduled outages may not exceed twenty-four (24) Days in the aggregate in any twelve month period for Purchaser.

Section 1.4 Disclaimer of Warranty as to LFG Quality. Except as provided expressly herein or in the Lease Agreement, Seller makes no warranties with respect to the LFG, including without limitation any warranties of merchantability or fitness for a particular purpose, or any warranty as to the composition of the LFG.

Section 1.5 Condensate Disposal. All Condensate generated by the Purchaser's Facility in connection with the production of RNG shall be disposed of by Purchaser at Purchaser's sole cost and in accordance with Applicable Laws, unless otherwise agreed in writing between Purchaser and Seller.

Section 1.6 Meters. At no cost to Seller, Purchaser shall, at its own expense, install metering devices at a location at or near the Delivery Point, and shall operate, calibrate, and maintain (or cause the operation, calibration and maintenance of) the metering devices in accurate working order. The metering devices shall measure the volume and heating value of the LFG delivered to Purchaser and the RNG produced by Purchaser's Facility. Seller shall have access to the metering equipment at all reasonable times and shall be provided with electronic meter readings on a continuous basis.

1.1.1. Meter Tests. At Purchaser's expense, Purchaser shall keep its metering equipment accurate and in good working order, making such periodic tests as Purchaser deems necessary, but at least once during each Billing Year. Purchaser's meters shall be maintained and calibrated in accordance with the manufacturer's specifications at least once during each Billing Year. Purchaser shall give Seller reasonable advance Notice of any meter test or calibration so that Seller may have its representatives present. Seller may, upon reasonable advance written notice, request a special test of the metering equipment at any time. The expense of such special test shall be paid by Seller if the equipment is found to be inaccurate by less than the manufacturer's stated accuracy. If, upon any test, the equipment is found to be so inaccurate that it affects the measurement accuracy by the manufacturer's stated accuracy or more, the cost of the meter test shall be paid by Purchaser and meter readings shall be corrected for a period extending back to the date on which such inaccuracy first occurred, if that date can be reasonably determined. If that date cannot be reasonably determined, corrections shall be made for the time period agreed upon by the Parties.

1.1.2. Meter Out of Service. If Purchaser's metering equipment is out of service or out of repair so that the amount of LFG delivered by Seller cannot be determined or corrected, the Parties shall estimate the amount of LFG delivered by Seller during any period when the metering equipment is out of service or out of repair based on deliveries under similar conditions during earlier periods when the metering equipment was registering properly. Notwithstanding the above, if Seller installs metering equipment reasonably acceptable to Purchaser and tests, repairs and maintains such metering equipment in a manner that is comparable to the manner in which Purchaser repairs and maintains its metering equipment, then Seller's metering equipment shall be used to measure the quantity of LFG delivered during periods when Purchaser's metering equipment is out of service.

1.1.3. Seller's Operation. Purchaser's performance of its obligations pursuant to this Agreement shall at all times be subordinate to Seller's and its Affiliates operation of the Landfill. At all times during the Term, Seller and its Affiliates shall have the right to conduct Landfill Operations as Seller and its Affiliates deem necessary or desirable in their sole judgment, in accordance with, and pursuant to the terms of, the Lease Agreement and Applicable Law.

## **Article VII TAXES**

Seller shall pay or cause to be paid all Taxes and assessments imposed on Seller with respect to the sale of LFG, the Royalty payments, and the ownership of the Landfill and related facilities. Purchaser shall pay or cause to be paid all Taxes and assessments imposed upon Purchaser with respect to the purchase of LFG, sale of RNG, and the ownership of Purchaser's Facility and all taxes that Purchaser is required to pay pursuant to the Lease Agreement.

**Article VIII**  
**REPRESENTATIONS AND WARRANTIES**

Section 1.1 Representations and Warranties of Both Parties. Each Party represents and warrants to the other Party that the following statements are true and correct as of the Effective Date:

(a) there are no pending or, to such Party's knowledge, threatened claims, disputes, governmental investigations, suits, actions (including non-judicial real or personal property foreclosure actions), arbitrations, legal, administrative or other proceedings of any nature, domestic or foreign, criminal or civil, at law or in equity, by or against such Party that challenge the enforceability of this Agreement or the ability of such Party to consummate the transactions contemplated hereby.

(b) (i) Purchaser is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to own, lease, and operate its business as currently conducted in the State of Illinois, with full legal right, power and authority to enter into and to perform its obligations hereunder and (ii) Seller is a corporation, duly formed, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to own, lease, and operate its business as currently conducted in the State of Illinois, with full legal right, power and authority to enter into and to perform its obligations hereunder;

(c) it has full power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, and this Agreement constitutes the legal, valid and binding agreement of such Party, enforceable against such Party in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether considered in a proceeding in equity or at law);

(d) no approval, authorization, order, consent, declaration, registration or filing with any Governmental Authority is required for the valid execution and delivery of this Agreement by such Party, except such as have been duly obtained or made. Such Party has all the rights required to enter into this Agreement and perform its obligations hereunder without the consent of any third party that has not been obtained and is in effect as of the date hereof; and

(e) neither the execution, delivery and performance of this Agreement nor the consummation by such Party of the transactions contemplated hereby will (i) conflict with or result in any breach of any provision of the organizational documents of such Party, or (ii) conflict with, result in any violation or breach of, constitute a default under, require any notice or consent under, result in the creation of any lien on such Party's assets, or create any right of termination, under the conditions or provisions of any note, bond, mortgage, indenture, material agreement or other instrument or obligation to which such Party is a party;

Section 1.2 Covenants of Both Parties. Each Party covenants to the other that during the Term of this Agreement it will:

(a) comply in all material respects at all times with all Applicable Laws necessary for its performance under this Agreement; and

(b) give all required Notices, and procure, maintain, and comply with, in all material respects, all applicable Permits necessary for the performance of its obligations under this Agreement, and pay all charges and fees in connection therewith.

**Article IX**  
**EVENTS OF DEFAULT AND REMEDIES**

Section 1.1 Events of Default. Each of the following occurrences shall constitute an “Event of Default” hereunder:

(a) A Party fails to make when due any payment required under this Agreement, and such failure is not cured within ten (10) Days after receipt of Notice from the other Party of such failure;

(b) Except for an Event of Default described in Section 9.1(a), the failure of a Party to perform any material covenant or obligation set forth in this Agreement, if such failure is not remedied within thirty (30) Days after receipt of Notice from the other Party of such failure, which Notice sets forth in reasonable detail the nature of the failure; provided however, that if the failure is not reasonably capable of being cured within the thirty (30) Day cure period specified above, but is curable, the Party that has failed to perform will have such additional time as is reasonably necessary to cure the failure (but in no event longer than one hundred eighty (180) Days), so long as such Party promptly commences and diligently pursues the cure; provided, further, that an Event of Default shall occur immediately to the extent any such failure cannot be cured;

(c) Any representation or warranty made by a Party in Section 8.1 of this Agreement shall have been false in any material respect when made unless such Party cures the misrepresentation or breach of warranty within thirty (30) Days after discovery by such Party or receipt of Notice from the other Party of the misrepresentation or breach of warranty;

(d) A Party (i) admits in writing its inability to pay its debts generally as they become due, (ii) files a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other Applicable Laws of the United States of America or any State, district or territory thereof, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a receiver of the whole or any substantial part of its assets; (v) has a petition in bankruptcy filed against it, and such petition is not dismissed within sixty (60) Days after the filing thereof, (vi) a court of competent jurisdiction enters an order, judgment, or decree appointing a receiver of the whole or any substantial part of its assets, and such order, judgment or decree is not vacated or set aside or stayed within sixty (60) Days from the date of entry thereof, or (vii) under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the whole or any substantial part of its assets and such custody or control is not terminated or stayed within sixty (60) Days from the date of assumption of such custody or control;

(e) A Party causes an ‘Event of Default’ under the Lease Agreement and the non-defaulting Party exercises its mature right to terminate the Lease Agreement due to such ‘Event of Default’;

(f) After achieving Substantial Completion, Purchaser’s Facilities are not commercially operational (for reasons other than a Force Majeure Event, scheduled outages, or as otherwise agreed in writing by the Parties) for a period of sixty (60) or more Days (in

the aggregate) during any 365-Day period; provided that Purchaser may cure such default by paying the monthly Extension Fee (as defined below).

(g) Purchaser's Facilities are commercially operational, but Purchaser fails to purchase the Purchase Obligation (for reasons other than a Force Majeure Event, scheduled outages, or as otherwise agreed in writing by the Parties) for a period of thirty (30) or more Days (in the aggregate) during any 365-Day period; or

(h) If the Delivery and Purchase Commencement Date does not occur within three (3) years following the Effective Date (the "Outside Date"); provided that:

(i) the Parties agree that the Outside Date shall be extended on a Day-for-Day basis for each Day of delay caused by, (i) a Force Majeure Event (provided that in no event shall such extension exceed one hundred and eighty (180) Days in the aggregate without the consent of Seller, not to be unreasonably withheld if the Force Majeure Event extends beyond such one hundred and eighty (180) Day period), or (ii) any failure of Seller to perform obligations or satisfy conditions required under this Agreement or the Lease Agreement.

(ii) Purchaser may extend the Delivery and Purchase Commencement Date for purposes of avoiding the termination of this Agreement for a period up to twelve (12) months if it is diligently continuing its efforts to develop Purchaser's Facility. After the twelve (12) month period, Purchaser may extend the Delivery and Purchase Commencement Date for purposes of avoiding termination of this Agreement for a period up to twenty four (24) months by paying a fee to Seller equal to \$100,000 per month (the "Extension Fee"). For the avoidance of doubt, the Extension Fee is paid by Purchaser to Seller to extend Purchaser's rights under this Agreement (and to delay Seller having a right to terminate this Agreement) and is not, and shall not be deemed to be, a penalty on Purchaser or damages incurred (liquidated or otherwise) by Seller and are to only be considered as compensation paid to Seller to preserve Purchaser's rights to the LFG from the Landfill.

Section 1.2 Remedies. Upon the occurrence of, and during the continuation of, an Event of Default that is not cured during any applicable cure period and for which this Agreement does not provide a specific or sole remedy, the non-defaulting Party may terminate this Agreement by Notice to the other Party, designating the date of termination and delivered to the defaulting Party no less than twenty (20) Days before such termination date. Upon the occurrence of an Event of Default, the non-defaulting Party may, in addition to the termination right described above and without regard to whether the non-defaulting Party terminates this Agreement, pursue all available remedies at law or in equity, subject to Section 9.3. The termination right pursuant to this Section 9.2 is in addition to any other termination rights provided elsewhere in this Agreement. Without limitation of the foregoing, each Party acknowledges that in the event of a breach or default or potential breach or default by the other Party of this Agreement, the non-defaulting Party may be irreparably harmed and that monetary damages hereunder may be an insufficient remedy for such harm, and in such event, non-defaulting Party may seek any and all available equitable remedies, including injunctive relief and specific performance, in respect of such breach or potential breach.

Section 1.3 Limitation on Damages.

1.1.1. LIMITATION OF LIABILITY. THE MAXIMUM LIABILITY FROM ONE PARTY TO ANOTHER IN ANY YEAR SHALL BE LIMITED TO ACTUAL DIRECT DAMAGES AND WILL, IN NO EVENT, WHEN TAKEN TOGETHER WITH SUCH PARTY'S LIABILITY UNDER THE LEASE AGREEMENT, EXCEED THREE MILLION DOLLARS

(\$3,000,000); PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (I) ACTS OF WILLFUL MISCONDUCT OR FRAUD, (II) VIOLATIONS OF APPLICABLE LAW, (III) ANY AMOUNTS RECEIVED BY SUCH PARTY PURSUANT TO INSURANCE POLICIES REQUIRED TO BE MAINTAINED BY SUCH PARTY PURSUANT TO THIS AGREEMENT, THE LEASE AGREEMENT, OR OTHERWISE APPLICABLE TO THE PURCHASER'S FACILITIES OR THE LANDFILL, OR (IV) INDEMNITY OBLIGATIONS FOR THIRD PARTY CLAIMS SET FORTH IN THIS AGREEMENT.

1.1.2. WAIVER OF CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR, AND EACH PARTY WAIVES ANY CLAIM TO, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING LOSS OF PROFITS OR REVENUE, LOSS OF USE, COST OF CAPITAL, DOWN TIME COSTS, LOSS OF OPPORTUNITY, LOSS OF TAX CREDITS, AND LOSS OF GOODWILL; PROVIDED, HOWEVER, THE FOREGOING SHALL NOT BE CONSTRUED AS LIMITING AN OBLIGATION OF A PARTY TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY AGAINST CLAIMS ASSERTED BY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, THIRD PARTY CLAIMS FOR SPECIAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES. FOR PURPOSES OF THIS AGREEMENT, THE TERM "THIRD PARTY" EXCLUDES A PARTY'S AFFILIATES, OFFICERS, AGENTS, EMPLOYEES, LENDERS, SUCCESSORS AND ASSIGNS. If a Party terminates this Agreement due to the other Party's Event of Default, all sums due hereunder shall be paid no later than thirty (30) Days following the date of termination.

Section 1.4 Double Recovery; Proper Assertion of Claims. Notwithstanding the fact that a Party may have the right to seek indemnification under or with respect to more than one provision of this Agreement or any other agreement entered into in connection herewith, in respect of any fact, event, condition or circumstance, neither Party shall be entitled to recover the amount of any losses suffered by such Party more than once under all such agreements in respect of such fact, event, condition or circumstance, and an Indemnifying Party shall not be liable for indemnification to the extent the Indemnified Party has otherwise been fully compensated for such losses; further, each Party hereby agrees to bring any claims for indemnification or losses under the agreement most closely related to the events giving rise to such claim for indemnification or loss.

## **Article X FORCE MAJEURE**

Section 1.1 Definition. As used in this Agreement any acts, events, or occurrences that are reasonably unforeseeable and not caused by the negligence or willful misconduct of the affected Party or any of its Personnel and are beyond the reasonable control of such Party or any of its Personnel may be considered Force Majeure Events. Depending upon the facts and circumstances, a "Force Majeure Event" as employed in this Agreement may include, without limitation: acts of God; strikes, lockouts or industrial disputes or disturbances of a nationwide or regional nature not specific to the Party claiming a Force Majeure Event; civil disturbances, arrests or restraint from rulers or people; acts of the public enemy, wars, riots, blockades or insurrections; pandemics, epidemics, lightning, earthquakes, fire, unusually severe weather, floods or explosions, governmental or judicial action or inaction, for reasons beyond either Party's reasonable control, revoking, suspending, or preventing issuance of any licenses or Permits required for operation of the Landfill or Purchaser's Facility; provided, however, that an economic downturn, or economic hardship suffered by a Party will not be deemed hereunder to be a Force Majeure Event.

Section 1.2 Excused Performance. A Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except the



obligation to make payments previously due in a timely manner for liabilities actually incurred, if and to the extent that its failure of, or delay in, performance is caused by a Force Majeure Event; provided that a Party is not excused as a result of such occurrence from any obligations of such Party which arose before the occurrence causing the suspension of performance. To be entitled to the foregoing relief, the Party claiming excuse by reason of a Force Majeure Event must:

- (a) give the other Party prompt Notice describing the particulars of the Force Majeure Event as soon as the Party claiming excuse by reason of a Force Majeure Event knows of the occurrence of such event.
- (b) suspend performance only to the extent and for the duration that is reasonably required by the Force Majeure Event;
- (c) use commercially reasonable efforts to overcome or mitigate the effects of such occurrence; and
- (d) promptly resume performance hereunder when such Party can resume performance of its obligations under this Agreement, and shall give the other Party Notice to that effect.

Section 1.3 Settlement of Strikes. Nothing in this Article X shall be construed to require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to such Party's interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts, or other labor disputes shall be entirely within the discretion of the Party experiencing such action.

Section 1.4 Burden of Proof. If the Parties are unable in good faith to agree that a Force Majeure Event has occurred, the Party claiming a Force Majeure Event shall have the burden of proof as to whether such event constitutes a Force Majeure Event and is responsible for a failure or delay of the performance of its obligations.

## **Article XI INDEMNITY AND INSURANCE**

### Section 1.1 Indemnification.

1.1.1. Purchaser Indemnity. Purchaser shall indemnify, hold harmless and, subject to Section 11.2, defend Seller and its Affiliates and their respective stockholders, partners, members, managers, directors, officers, employees, agents, invitees and independent contractors, and their respective successors and assigns ("Seller Persons"), from and against any and all costs, claims, liabilities, penalties, fines, damages, expenses, causes of action, suits, or judgments, including, reasonable attorneys' fees and all court costs and experts' fees (collectively, "Losses"), actually incurred or paid by a Seller Person (including in connection with the claims of third parties for injury to persons or damage to property or any proceeding by a Governmental Authority) to the extent caused by or arising from:

- (a) any breach by Purchaser of the representations and warranties set forth herein or in the performance of the duties and obligations of Purchaser under this Agreement or the Lease Agreement;
- (b) Purchaser's use, occupancy, conduct, operation, alteration, maintenance, repair, replacement, or management of Purchaser's Facility or the Landfill in violation of Applicable Laws;

- (c) any willful misconduct or negligent or grossly negligent act or omission of Purchaser or its Affiliate, representative or agent;
- (d) any Hazardous Substance contamination or other environmental condition, including clean-up actions or remediation work resulting therefrom, at the Landfill, whether now known or hereafter discovered and caused by Purchaser or its Affiliate, representative or agent; or
- (e) any and all claims, directly or indirectly arising out of or related to, Purchaser's purchase or processing of the LFG delivered to Purchaser after the Delivery Point under this Agreement, and any and all claims arising in connection with damage to property, including without limitation damage to Purchaser's Facility or the Landfill, or injury of or death to persons resulting from the presence of any component within such RNG, or otherwise arising in connection with such RNG.

1.1.2. Seller Indemnity. Seller shall indemnify, hold harmless and, subject to Section 11.2, defend Purchaser and its Affiliates and their respective stockholders, partners, members, managers, directors, officers, employees, agents, invitees and independent contractors, and their respective successors and assigns ("Purchaser Persons"), from and against any and all Losses, actually incurred or paid by a Purchaser Person (including in connection with the claims of third parties for injury to persons or damage to property or any proceeding by a Governmental Authority) to the extent caused by or arising from:

- (a) any breach by Seller of the representations and warranties set forth herein or in the performance of the duties and obligations of Seller under this Agreement or the Lease Agreement;
- (b) Seller's conduct, operation, alteration, maintenance, repair, replacement, or management of the Landfill in violation of Applicable Laws;
- (c) any willful misconduct or negligent or grossly negligent act or omission of Seller or its Affiliate, representative or agent;
- (d) any Hazardous Substance contamination or other environmental condition, including clean-up actions or remediation work resulting therefrom, at the Landfill, whether now known or hereafter discovered, caused by Seller or its Affiliate, representative or agent; or
- (e) any and all claims, directly or indirectly arising out of or related to, the collection and delivery of LFG prior to and at the Delivery Point, and any and all claims arising in connection with damage to property, including without limitation damage to Purchaser's Facility or the Landfill, or injury of or death to persons resulting from the presence of any component within such LFG, or otherwise arising in connection with such LFG.

Section 1.2 Notice and Defense of Claims.

1.1.1. Notice of Indemnification. Whenever a claim shall arise for indemnification hereunder or upon learning of facts which a Seller Person believes may give rise to a claim for indemnification, a Seller Person (the "Indemnified Party") shall give prompt written Notice to Purchaser (the "Indemnifying Party") of the claim for indemnification and the facts, in reasonable detail, constituting the basis for such claim; provided that failure of an Indemnified Party to give prompt written Notice of any claim shall not release, waive or otherwise affect an Indemnifying

Party's obligations with respect thereto except to the extent that the Indemnifying Party is adversely affected in its ability to defend against such claim or is otherwise prejudiced thereby.

1.1.2. Indemnification Process. The obligations and liabilities of an Indemnifying Party to an Indemnified Party under this Article XI with respect to claims resulting from the assertion of liability by those not party to this Agreement (including claims of Governmental Authorities for penalties, fines and assessments) shall be subject to the following conditions:

(a) The Indemnified Party shall give prompt written Notice to the Indemnifying Party of the nature of the assertion of Losses by a third party and the amount thereof to the extent known; provided that failure of an Indemnified Party to give prompt written Notice of any claim shall not release, waive or otherwise affect an Indemnifying Party's obligations with respect thereto except to the extent that the Indemnifying Party is adversely affected in its ability to defend against such claim or is otherwise prejudiced thereby.

(b) The Indemnifying Party shall be entitled to participate in or, at its option, assume the defense, appeal or settlement of such claim. Such defense, appeal or settlement shall be conducted through counsel selected by the Indemnifying Party. The Indemnifying Party shall not be entitled to assume control of such defense and shall pay the reasonable fees and expenses of counsel retained by the Indemnified Party if (A) the claim for indemnification relates to or arises in connection with any criminal proceeding, action, indictment, allegation or investigation; (B) the Indemnified Party reasonably believes an adverse determination with respect to the claim or giving rise to such claim for indemnification would be detrimental to or injure the Indemnified Party's reputation or future business prospects; (C) the claim seeks an injunction or equitable relief against the Indemnified Party; or (D) upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend such claim.

(c) In any claim initiated by a third party and defended by the Indemnifying Party (A) the Indemnified Party shall have the right to be represented by advisory counsel and accountants at its own expense, (B) the Indemnifying Party shall keep the Indemnified Party fully informed as to the status of such claim at all stages thereof, whether or not the Indemnified Party is represented by its own counsel, (C) the Indemnifying Party shall make available to the Indemnified Party, and its attorneys, accountants and other representatives, all books and records of the Indemnifying Party relating to such claim and (D) the Parties shall render to each other such assistance as may be reasonably required in order to ensure the proper and adequate defense of such claim.

(d) No third party claim may be compromised or settled by the Indemnifying Party without the written consent of the Indemnified Party (which consent shall not be unreasonably withheld, conditioned or delayed) unless (A) there is no finding or admission of any violation of Applicable Law by the Indemnified Party, and no effect on any other claims that may be raised by the Indemnified Party, and (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party. Similarly, no third-party claim may be settled by the Indemnified Party without the written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 1.3 Survival. Notwithstanding any other provisions in this Agreement, all provisions of this Article XI shall survive expiration or termination of this Agreement by default or otherwise.

Section 1.4 Insurance. Purchaser shall maintain in effect the insurance coverage required by the Lease Agreement. Purchaser's insurance coverage and the limitations thereunder shall in no way limit the indemnity obligations set forth in this Agreement; provided that, to the extent an insurable claim arises, the Parties agree to first pursue recovery under such insurance coverage before seeking indemnification from the other Party. For the avoidance of doubt, a Party's deductible under its respective insurance policies constitutes Losses for which it may seek indemnification from the Indemnifying Party (to the extent permitted by this Article XI).

## **Article XII ASSIGNMENT**

This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns (including by operation of law), but, except as permitted in Section 13.14 below, neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by Purchaser without the prior written consent of Seller (to be granted in Seller's sole discretion), provided that Seller may make such an assignment without Purchaser's consent to (a) a successor to substantially all of Seller's business, whether in a merger, sale of stock, sale of assets or other transaction, and (b) an Affiliate of Seller. Any purported assignment or delegation in violation of this Section shall be null and void.

## **Article XIII MISCELLANEOUS**

Section 1.1 Notices. All notices, reports, certifications, or other documentation, and other communications hereunder shall be in writing and shall be deemed given when received if delivered personally or by facsimile transmission with completed transmission acknowledgment or by electronic mail, or when delivered if mailed by overnight delivery via a nationally recognized courier or registered or certified first class mail (return receipt requested), postage prepaid, to the recipient Party at its below address (or at such other address or facsimile number for a Party as shall be specified by like notice (each a "Notice"); provided, however, that notices of a change of address shall be effective only upon receipt thereof and that any notice provided by electronic mail will be followed promptly by another form of notice consistent with this Section 13.1 and will be effective when such follow-up notice is deemed effective):

If to Purchaser: Cottonwood RNG LLC  
One North Lexington Avenue  
Suite 1450  
White Plains, New York 10601  
Attn: Chief Operating Officer  
Email: [\*\*\*]

with a copy to: OPAL Fuels LLC  
One North Lexington Avenue  
Suite 1450  
White Plains, New York 10601  
Attn: Office of General Counsel  
Email: [\*\*\*]

If to Seller: Waste Management of Illinois, Inc.  
601 Madison Road  
East St. Louis, Illinois 62201  
Attn: [\*\*\*]  
Email: [\*\*\*]

with a copy to: WM Renewable Energy, L.L.C.  
800 Capitol, Suite 3000  
Houston, Texas 77002  
Attn: Vice President of Renewable Energy  
Email: [\*\*\*]

and: Waste Management Legal  
800 Capitol, Suite 3000  
Houston, Texas 77002  
Attn: General Counsel  
Email: [\*\*\*]

and: WM Corporate Real Estate  
720 Butterfield Road  
Lombard, IL 60148  
Attention: VP of Real Estate

Each Party may designate a different address for notices by Notice given as provided above.

Section 1.2 Governing Law, Jurisdiction, Venue.

1.1.1. THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS, WITHOUT GIVING EFFECT TO ANY CONFLICTS OF LAW OR OTHER PRINCIPLES THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

1.1.2. THE PARTIES HEREBY IRREVOCABLY SUBMIT TO THE NON- EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF TEXAS IN HOUSTON, TEXAS AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS WITH RESPECT TO THE ENFORCEMENT OF ANY AWARD PURSUANT TO SECTION 13.3, OR ANY SUIT, ACTION OR PROCEEDING, INCLUDING AN ACTION FOR AN ORDER OF INTERIM, PROVISIONAL OR CONSERVATORY MEASURES TO MAINTAIN THE STATUS QUO AND PREVENT IRREPARABLE HARM, AND THE PARTIES IRREVOCABLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OR DEFENSE THAT THE FORUM IS INCONVENIENT WITH RESPECT TO ANY SUCH SUIT, ACTION OR PROCEEDING FOR SUCH. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATING TO ANY SUCH DISPUTE AND FOR ANY COUNTERCLAIM WITH RESPECT THERETO BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 1.3 Dispute Resolution.

1.1.1. Notice of Dispute. Subject to Section 13.3.3, and except as provided in Article XI, in the event a dispute, controversy or claim (a "Dispute") arises hereunder, including any claim whether in contract, tort (including negligence), strict product liability or otherwise, the aggrieved Party will promptly provide Notice of the Dispute to the other Party within ten (10) Days after such dispute arises. Thereafter, a meeting shall be held promptly between the Parties, attended by representatives of the Parties with decision-making authority regarding the Dispute, to attempt in good faith to negotiate a resolution of the Dispute ("Party Representative Negotiations"). If the Parties are not successful in resolving a Dispute through Party Representative Negotiations

within twenty-one (21) Days of such meeting, then, subject to the limitations on remedies set forth in Section 9.2, either Party may seek to proceed as set forth in this Section 13.3.

1.1.2. Technical Disputes. If such Dispute arises primarily from technical issues in respect of the operation and/or maintenance of Purchaser's Facility or if the Parties agree to submit a Dispute to an Independent Engineer pursuant to this Section 13.3.2, the Parties shall, within ten (10) Business Days following the expiration of Party Representative Negotiations, appoint an independent and unaffiliated third party, reasonably acceptable to both Parties, who has nationally recognized expertise in the area of dispute and that has not: (a) provided technical, financial or engineering assistance to a Party or any of its Affiliates, of a material nature within the thirty-six (36) months immediately preceding the date of the Notice of Dispute; or (b) earned revenue from a Party or any of its Affiliates that exceed five percent (5%) of the Independent Engineer's annual review in any of the five (5) calendar years preceding the date of the Notice of Dispute (the "Independent Engineer"). If the Parties are unable to agree on an Independent Engineer within such ten (10) Business Day period, then each of the Seller and Purchaser respectively shall within a further ten (10) Business Days give notice to the other Party of its Independent Engineer and the Independent Engineers selected by the Parties shall as soon as possible thereafter, appoint a third Independent Engineer who shall act as the Independent Engineer. Alternatively, the Parties may agree at any time during the Term as to the identity of the Independent Engineer(s) to which disputes submitted for resolution pursuant to this Section 13.3.2 shall be submitted for determination. The dispute described in the applicable notice shall be submitted to the Independent Engineer selected in the manner herein provided for determination, and the decision of the Independent Engineer shall be final and binding on the Parties.

1.1.3. Ordinary Disputes. If the Dispute cannot be settled through Party Representative Negotiations and does not arise primarily from technical issues in respect of the operation and/or maintenance of Purchaser's Facility, or the Parties otherwise agree to not submit such Dispute to an Independent Engineer for resolution, the Parties agree to endeavor to settle the Dispute within ten (10) Business Days by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Procedures before resorting to arbitration. The Parties further agree that any unresolved Dispute shall be determined by arbitration administered by the AAA in accordance with its Commercial Arbitration Rules ("AAA Rules") and that judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

(a) If the Dispute is not resolved by AAA mediation as set forth above, such Dispute shall be heard by a panel of three (3) arbitrators. Within ten (10) Business Days after the commencement of arbitration, each Party shall select one person to act as an arbitrator and the two selected arbitrators shall select a third arbitrator within five (5) Business Days of the appointment of the last designated arbitrator. Each person selected shall have at least ten (10) years of demonstrable experience in litigation or dispute resolution in the construction and/or waste disposal industry in order to serve as an arbitrator. If the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected pursuant to Rule 12 of the AAA Rules in effect as of the Effective Date of this Agreement.

(b) The place of arbitration shall be Houston, Texas.

(c) All Disputes when initially brought to arbitration shall set forth the amount of damages sought. If the amount in the Dispute is less than one million dollars (\$1,000,000) there shall be no discovery other than the exchange of documents. If the amount in the Dispute is one million dollars (\$1,000,000) or greater, discovery shall consist of no more than five (5) depositions for a total time not to exceed of thirty (30) hours.

(d) Hearings will take place pursuant to the standard procedures of the AAA Rules that contemplate in-person hearings. The standard provisions of the AAA Rules shall apply.

(e) The award shall be made within six (6) months of the filing of the notice of intention to arbitrate, and the arbitrators shall agree to comply with this schedule before accepting appointment. However, this time limit may be extended by the arbitrators for good cause shown, or by mutual agreement of the Parties.

(f) The Parties hereby agree that the arbitrators shall have no authority to award punitive damages, exemplary damages, moral damages, treble damages, or any other penalty or punitive type of damages (“Punitive Damages”), regardless of whether such damages may be available under law. The Parties hereby waive to the fullest extent permitted by law, their right, if any, to recover such Punitive Damages.

(g) Each Party shall bear its own costs, expenses, and fees incurred in connection with the arbitration, as well as an equal share of the arbitrators’ and administrative fees of arbitration. Except as may be required by law or to enter judgment on an award rendered by the arbitrators, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

The provisions of this Section 13.3 shall survive the termination or expiration of this Agreement.

Section 1.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures delivered by facsimile, portable document format or other electronic means (including services such as DocuSign) will be considered original signatures, and each Party shall thereafter promptly deliver original signatures to the other Party.

Section 1.5 Waiver of Compliance; Consents. Except as otherwise provided in this Agreement, any failure of any of the Parties to comply with any obligation, covenant, agreement or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but any such waiver of such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent failure to comply therewith.

Section 1.6 No Third Party Beneficiaries. Except as otherwise specified herein, (a) nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person that is not a Party, (b) no Person that is not a Party shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder and (c) this Agreement is intended solely for the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third-party beneficiary to this Agreement or the services to be provided hereunder.

Section 1.7 Interpretation. The article, section and schedule headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the Parties and shall not in any way affect the meaning or interpretation of this Agreement.

Section 1.8 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the

economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party.

Section 1.9 Entire Agreement. This Agreement combined with the Lease Agreement, including the recitals hereto and all schedules, attachments or exhibits attached hereto, constitutes the entire agreement between the Parties concerning the subject matter hereof, which supersedes all previous written and oral negotiations, commitments, proposals and writings. This Agreement may be amended modified or supplemented only by written agreement of Purchaser and Seller. To the extent that there is any conflict between the provisions of the body of this Agreement and the provisions of any schedule, attachment or exhibit attached hereto, the body of this Agreement shall control.

Section 1.10 Construction of Agreement. The terms and provisions of this Agreement represent the results of negotiations between Purchaser and Seller, each of which has been represented by counsel of its own choosing, and neither of which has acted under duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and Purchaser and Seller hereby waive the application in connection with the interpretation and construction of this Agreement of any rule of law to the effect that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed draft or any earlier draft of this Agreement.

Section 1.11 Further Assurances. Each Party agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated by this Agreement.

Section 1.12 Emergency Contact. Each Party shall make available by phone twenty-four (24) hours per Day, seven (7) Days per week, an individual or individuals whom the other Party may contact in the event of an emergency or any other situation requiring immediate communication between the Parties, including, but not limit to, the need to interrupt or re-start the flow of LFG.

Section 1.13 No Partnership. Nothing contained in this Agreement shall be construed to create any association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation, or liability or an agency relationship on, or with regard to, either Party.

Section 1.14 Lender Cooperation. Seller shall cooperate with and abide by the reasonable requests (assuming a reasonable number of requirements and requests, in the aggregate) of the financial institutions, investors, and/or government entities that provide construction or other financing or equity investment in or for Purchaser's Facility or Purchaser (collectively referred to in this Agreement as the "Lender"). Upon written Notice to Seller, Purchaser may assign a collateral security interest in this Agreement to a Lender as collateral security, so long as such collateral assignment does not materially alter this Agreement; provided that any absolute assignment of this Agreement to a Lender shall occur only following and as the result of the exercise by such Lender of its remedies in connection with such a default by Purchaser under the applicable financing documents. Purchaser shall reimburse Seller for all reasonable, documented third party costs, including attorneys' fees, incurred by Seller to comply with the provisions of this Section 13.14 within fifteen (15) Days following receipt of an invoice from Seller. Nothing in this Section 13.14, or Seller's failure to execute the documents stated in this Section 13.14, shall relieve Purchaser of its payment obligations under this Agreement.



Section 1.15 Confidentiality. Each Party ("Receiving Party") shall keep and cause its employees to keep confidential, for the Term of this Agreement, the pricing aspects of this Agreement, data and information concerning the business plans or activities of the other Party, its Affiliates, or third parties (collectively, "Disclosing Party") which are made available to Receiving Party by Disclosing Party or which result from either Party's performance in connection with this Agreement. Receiving Party agrees not to use said information and data except for the purposes of performing under this Agreement. However, the above obligations of confidentiality and nonuse do not apply to information which (a) Receiving Party can demonstrate was known to it prior to disclosure by Disclosing Party; (b) is, or later becomes, public knowledge without breach of this Agreement by Receiving Party; (c) Receiving Party receives from a third party who Receiving Party did not know was under obligations of confidentiality to Disclosing Party; or (d) is developed by Receiving Party independently from information received from Disclosing Party, as evidenced by appropriate documentation. Notwithstanding the foregoing, Receiving Party may disclose said information and data if ordered to do so by a court or a government agency with jurisdiction over the matter, provided that Receiving Party shall furnish Disclosing Party, if practical, notice of receipt of a request for disclosure of said information and data in such proceeding. This Article shall survive the expiration or early termination of this Agreement for a period of twelve (12) months thereafter.

Section 1.16 Public Announcement. No public announcement or external communication (whether in the form of a press release or otherwise) shall be made by or on behalf of Purchaser, Purchaser's Affiliates or Purchaser's representatives with respect to the subject matter of this Agreement and/or the Lease Agreement unless (a) Seller has agreed in writing to permit such public announcement or external communication, which shall not be unreasonably withheld so long as such public announcement or external communication contains no information that may be reasonably used to identify Seller, its Affiliates or the Landfill; or (b) such public announcement is required by law, Purchaser is required to make such announcement, and Purchaser has given prior written notice thereof to Seller. No public announcement or external communication containing any direct reference to, or information that may be reasonably used to identify Seller, its Affiliates or the Landfill, (whether in the form of a press release or otherwise) shall be made by or on behalf of Purchaser, Purchaser's Affiliates or Purchaser's representatives with respect to the subject matter of this Agreement and/or the Lease Agreement unless Seller has agreed in writing to permit such public announcement or external communication, which permission may be withheld in its sole discretion. The language and substance of any public announcement made as permitted under this Section 13.16 shall in all cases be only as mutually agreed upon by the Parties.

*[Remainder of Page Intentionally Left Blank – Signature Pages Follow]*

**IN WITNESS WHEREOF**, each of the Parties has caused this Agreement to be executed by an Authorized Representative as of the date first written above.

**SELLER:**

WASTE MANAGEMENT OF ILLINOIS, INC.

By: /s/Brad Pollock

Name: Brad Pollock

Title: President

**PURCHASER:**

COTTONWOOD RNG, LLC

By: /s/Jonathan Maurer

Name: Jonathan Maurer

Title: Co-CEO

PORTIONS OF INFORMATION CONTAINED IN THIS AGREEMENT HAVE BEEN EXCLUDED FROM THIS AGREEMENT BECAUSE THEY ARE BOTH NOT MATERIAL AND THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. EXCLUDED INFORMATION IS MARKED AS [\*\*\*] BELOW

**PIGGYBACK AGREEMENT FOR LANDFILL GAS PURCHASES**

**THIS PIGGYBACK AGREEMENT** (the “**Agreement**”), dated May 2, 2023 (the “**Execution Date**”), is entered into by and between **Polk County** (the “**Seller**”), a political subdivision of the State of Florida, situated at 330 W. Church Street, Bartow, Florida 33830, and **Polk County RNG LLC** (the “**Buyer**”), a Delaware limited liability company, situated at 1 North Lexington Avenue, White Plains, NY 10601, and whose Federal Employer Identification Number is 92-3483962.

**WHEREAS**, the Seller’s Procurement Ordinance and Procurement Procedures permit it to enter into piggyback purchasing agreements; and

**WHEREAS**, the Buyer has contracted with the New River Solid Waste Association to provide renewable natural gas purchasing services pursuant to that certain Landfill Gas Purchase Agreement dated as of October 5, 2020 (as amended by First Amendment To Landfill Gas Purchase Agreement dated August 23, 2021, the “**New River Agreement**”) which those parties entered into upon the New River Solid Waste Association’s award of RFP 18-01 to Buyer to purchase renewable natural gas; and

**WHEREAS**, the Seller and the Buyer have determined that the New River Agreement is an acceptable agreement upon which the Seller and the Buyer will establish a piggyback agreement; and

**WHEREAS**, the Seller owns and operates the Polk County North Central Landfill located at 7425 De Castro Road in Winter Haven, Florida (the “**Polk County Landfill**”), and

**WHEREAS**, the Seller desires to sell the gas produced from the decomposition of refuse and other solid wastes collected at the Polk County Landfill for beneficial use and, accordingly, requires the services of a vendor who can develop, construct, own and operate a RNG Facility at the Polk County Landfill for purposes of converting Landfill Gas to Renewable Natural Gas, as further described herein; and

**WHEREAS**, the Seller anticipates entering into a Site Lease with Buyer, pursuant to which Buyer would have the right to develop, construct, own and operate the RNG Facility at the Polk County Landfill intended to convert Landfill Gas to Renewable Natural Gas, as further described herein; and

**WHEREAS**, the Seller wishes to sell all Landfill Gas, and the Buyer wishes to buy from the Seller all Landfill Gas delivered to the Buyer at the Point of Delivery for the purpose of converting the Landfill Gas to Renewable Natural Gas in the RNG Facility and selling the Renewable Natural Gas for beneficial use, all on and subject to the terms and conditions herein.

**NOW, THEREFORE**, in consideration of the promises contained herein, the parties hereby agree, as follows:

1. **Recitals.** The above stated recitals are true and correct. Capitalized terms used herein shall have the meaning ascribed in the New River Agreement, unless otherwise defined herein.

2. **Terms and Conditions: Conflict.** Except as otherwise provided herein, the New River Agreement, as in effect on the Execution Date, shall form the basis of this Agreement and is hereby incorporated by reference into and made a part of this Agreement, *mutatis mutandis*, as if the New River Agreement were set forth in full in this Agreement; *provided, however*’.

- (a) all references to “New River Solid Waste Association,” “a Florida municipal corporation,” or “a Florida association of municipal subdivisions” in the New River Agreement shall be replaced with, respectively, “Polk County” and “a political subdivision of the State of Florida,” and all references to “Seller” in the New River Agreement shall be deemed to mean Polk County, a political subdivision of the State of Florida;
- (b) all references to “New River RNG LLC” or “a Delaware limited liability company” in the New River Agreement shall be replaced with, respectively, “Polk County RNG LLC” and “a Delaware limited liability company,” and all references to “Buyer” in the New River Agreement shall be deemed to mean Polk County RNG LLC, a Delaware limited liability company;
- (c) all references to “Landfill,” “New River Regional Landfill,” or “24276 NE 157th Street, Raiford, Union County, Florida” in the New River Agreement shall be replaced with and deemed to mean the Polk County North Central Landfill located at 7425 De Castro Road in Winter Haven, Florida, and the word “municipal” in the definition of “Landfill” in the New River Agreement shall be removed;
- (d) the definition of “Letter of Financial Support” in the New River Agreement shall be deleted in its entirety;
- (e) the definition of “PGS” in the New River Agreement shall be deleted in its entirety and replaced with:  
“ “Utility” means the natural gas utility, whether local distribution company or interstate pipeline, to which the RNG Facility is interconnected for the delivery of Renewable Natural Gas to third parties.”;
- (f) all references to “PGS” in the New River Agreement shall be replaced with “Utility”;
- (g) the definition of “TruStar” in the New River Agreement shall be deleted in its entirety and replaced with:  
“ “OFSS” shall mean OPAL Fuels Station Services LLC f/k/a TruStar Energy LLC.”;
- (h) all references to “TruStar” in the New River Agreement shall be replaced with “OFSS”; and
- (i) all references to “October 5, 2020” or the date of the New River Agreement shall be replaced with and deemed to mean the Execution Date.

A true and correct copy of the New River Agreement is attached hereto as Attachment “1”. If any provision of this Agreement conflicts with any provision of the New River Agreement, then the provisions of this Agreement shall control. In the event that, at any time, the New River Agreement is amended or modified, then Buyer and Seller shall confer regarding similar amendments or modifications to be made to this Agreement, as applicable.

3. **Exhibits.** Exhibits A, A-1, B and C to the New River Agreement are hereby deleted in their entirety and will be replaced with documents depicting and describing a (i) Site Plan, (ii) Point of Delivery, (iii) RNG Facility, and (iv) Technical Interconnection between the RNG Facility

and the Collection System, all of which are unique to the Polk County North Central Landfill, and the final form of which will be mutually agreed upon by Buyer and Seller no later than sixty (60) days following the execution of this Agreement via a written amendment hereto.

4. **Supplemental Terms and Conditions.** The following provisions of the New River Agreement are hereby modified as follows:

A. **Preliminary Statements.** The second and third paragraphs of the Preliminary Statements of the New River Agreement are deleted in their entirety.

B. **Definitions.** Section 1.1 of the New River Agreement is hereby revised to amend and replace the following definitions with the following:

“**Effective Date**” means the first Business Day after the date that (a) this Agreement, the Parent Guaranty, and the Site Lease have been fully executed and delivered and are in full force and effect, and (b) Exhibits A, A-1, B and C are mutually agreed upon by Buyer and Seller and attached to this Agreement; as notified by Seller to Buyer.”

“**Excess Gas**” means Landfill Gas in excess of the Required Gas.”

“**Guarantor**” means OPAL Fuels LLC, a Delaware limited liability company.”

“**Unusual Weather Events**” means weather conditions at the Site which fall outside of the most recent ten (10) year historical mean plus two standard deviations using National Oceanic Atmospheric Administration weather data from a reporting station located at or around Winter Haven, Florida.”

C. **Interpretation.** Section 1.2 of the New River Agreement is hereby revised to add the following subsection (k):

“(k) The term “immediate” when used in this Agreement shall mean as soon as possible, but in no event longer than 24 hours.”

D. **Section 3.3** of the New River Agreement is hereby revised and restated in its entirety as follows:

“3.3 **Disposal of Condensate.** Buyer may deliver condensate from the RNG Facility to Seller at a location at the Landfill to be agreed by the Parties prior to commencement of any construction activities at the Site (such location, the “**Condensate Acceptance Point**”). Buyer shall install at its expense a flange to facilitate such delivery at the Condensate Acceptance Point. Seller shall accept only condensate that conforms to the Condensate Specifications and Seller’s permitting and regulatory requirements. Independent of the Toxicity Characteristic Leaching Procedure (TCLP) tests to be performed by the Buyer, Seller shall have the right to collect and test samples of condensate from the RNG Facility to confirm compliance with the Condensate Specifications and above stated requirements. Seller shall dispose of all acceptable condensate delivered to the Condensate Acceptance Point in accordance with Applicable Laws and Regulations. Buyer, at its own expense, shall dispose of all industrial wastewater, Hazardous Materials and other contaminants and non-acceptable condensate generated from or in connection with the RNG Facility in a properly licensed facility in accordance with Applicable Law. If, as a result of taking Buyer’s condensate, Seller is required to make any additional payment, obtain additional Permits, or conduct additional testing in excess of such payment, testing or Permits as Seller is required to make, obtain, or conduct in connection with the disposal of its own leachate or condensate, then, at Seller’s request, Buyer shall promptly reimburse Seller for such additional payments made

and the reasonable, documented, incremental out-of-pocket costs of obtaining such additional Permit(s) or conducting such additional testing.”

E. The following sentence is hereby added to the end of Section 3.4 of the New River Agreement:

“The RNG Facility shall have an uptime of a minimum of 95%.”

F. The first sentence of Section 4.1(b) of the New River Agreement is hereby revised and restated in its entirety as follows:

“All applications prepared by or for Buyer (including supporting materials) for the Facility Permits shall be provided to Seller for review no less than five (5) days prior to submission to the applicable Governmental Authority.”

G. The following sentence is hereby added to the end of Section 4.2 of the New River Agreement:

“Seller may request the use of specific equipment and components manufactured/brands if doing so provides integration with Seller’s current equipment.”

H. The final sentence of Section 4.3 of the New River Agreement is hereby revised to reduce the ten (10) day period related to submission of the Remedial Action Plan to five (5) days.

I. Section 4.4 of the New River Agreement is hereby revised as follows:

(a) the first sentence of Section 4.4(a) is deleted in its entirety and replaced with the following:

“Each of the RNG Sale Agreement Milestone, the RINs Monetization Agreement Milestone and the Interconnection Agreement Milestone shall be achieved no later than three hundred sixty five (365) days following the Execution Date (the “First Milestone Date”), as such date may be extended as provided in Section 4.3.”;

(b) the first sentence of Section 4.4(b) is deleted in its entirety and replaced with the following:

“Unless extended as provided in Section 4.3, the Procurement Contract Milestone shall be achieved no later than one hundred twenty (120) days following the Execution Date (the “Procurement Contract Milestone Date”).”;

(c) the first sentence of Section 4.4(c) is deleted in its entirety and replaced with the following:

“Unless extended as provided in Section 4.3, the Construction Commencement Milestone shall be achieved no later than two hundred forty (240) days following the Procurement Contract Milestone Date (the “Construction Milestone Date”).”; and

(d) the first sentence of Section 4.4(d) is deleted in its entirety and replaced with the following:

“Buyer shall achieve the Commercial Operation Date, as may be extended as provided in Section 4.3, for the RNG Facility by September 1, 2024 (the “Guaranteed Commercial Operation Date” or “GCOD”).”

A. Section 4.5 of the New River Agreement is hereby revised and restated in its entirety as follows:

“4.5 (*Intentionally Omitted.*)”

B. The following sentence is hereby added to the end of Section 4.13 of the New River Agreement:

“Buyer shall perform a TCLP test on the aqueous phase of the condensate to ensure it is acceptable to be introduced in Seller’s Leachate Collection Systems.”

C. Section 6.4 of the New River Agreement is hereby revised and restated in its entirety as follows:

“6.4 Royalty Payment. [\*\*\*].”

D. Section 7.1 of the New River Agreement is hereby revised and restated in its entirety as follows:

“7.1 Term. This Agreement is effective as of the date hereof; provided that, notwithstanding anything herein, (a) without the written consent of Seller, Buyer nor any subcontractor or agent of Buyer may not enter upon or occupy or undertake any activities at the Landfill, including the Site, prior to the Effective Date, (b) for the avoidance of doubt, no physical activities at the Landfill (including the Site) in connection with the RNG Facility or this Agreement may commence until the Effective Date, and (c) until the Effective Date, Seller shall have no obligation to reserve, deliver or sell Landfill Gas to Buyer. Unless earlier terminated as provided herein, this Agreement shall continue until the expiration of April 26, 2042 (the “Initial Term”). If the Site Lease is extended for not less than a corresponding period in accordance with its terms or otherwise by agreement between the Lessee and Seller, Buyer, by notice to Seller delivered not less than two years prior to the expiration of the Initial Term, may propose to extend the term by an additional five years, in which case, Buyer and Seller shall meet to discuss the terms of such extended term. If Buyer fails to deliver timely notice of a proposed extension or if the Parties do not agree to extend the Term within one hundred twenty (120) days of delivery to Seller of Buyer’s notice, then this Agreement shall expire at the end of the Initial Term. Notwithstanding the foregoing or anything herein, but without limitation of Section 10, this Agreement shall terminate as of the earlier of (x) simultaneously with the termination or expiration of the Site Lease for any reason, and (y) at such time as Buyer (or a permitted assignee of Buyer) is not the RNG Facility Operator.”

E. Section 7.2(a)(i) of the New River Agreement is hereby revised by deleting the following from such subsection: “(A)” and “and (B) the Letter of Financial Support has not been delivered”.

F. For purposes of Section 8.2(a) of the New River Agreement, all obligations for each Party to test its meters shall also include the obligation to calibrate said meters. All tests and calibrations required under Section 8.2(a) or otherwise must be performed by a certified third party.

G. Insurance. Section 12.5 of the New River Agreement is hereby revised and restated in its entirety as follows:

“The Buyer shall maintain at all times the following minimum levels of insurance and shall, without in any way altering its liability, obtain, pay for and maintain insurance for the coverage and amounts of coverage not less than those set forth below. The Buyer shall provide the Seller original Certificates of Insurance satisfactory to the Seller to evidence such coverage before any work commences.

The Seller shall be named as an additional insured on General, Automobile Liability, and Environmental Liability policies. All policies shall contain a waiver of subrogation in favor

of Polk County. The commercial General Liability Policy shall (by endorsement if necessary) provide contractual liability coverage for the contractual indemnity stated in Section 10, above. All insurance coverage shall be written with a company having an A.M. Best rating of at least the "A" category and size category of VIII. The Buyer's self-insured retention or deductible per line of coverage shall not exceed \$25,000 without the permission of the Seller. In the event of any failure by the Buyer to comply with the provisions of this Section 11, the Seller may, at its option, upon notice to the Buyer suspend Buyer's performance of the Services for cause until there is full compliance. Alternatively, the Seller may purchase such insurance at the Buyer's expense, provided that the Seller shall have no obligation to do so and if the Seller shall do so, the Buyer shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverage.

Comprehensive Automobile Liability Insurance. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage resulting from any one occurrence, including all owned, hired, and non-owned vehicles. This coverage shall be primary over any other available insurance.

Commercial General Liability. \$2,000,000.00 combined single limit of liability for bodily injuries, death and property damage, and personal injury resulting from any one occurrence, including the following coverages:

Premises and Operations:

Broad Form Commercial General Liability Endorsement to include Blanket Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm); Personal Injury (with employment and contractual exclusions deleted); and Broad Form Property Damage coverage.

Independent Contractors:

Delete Exclusion relative to collapse, explosion and underground; Property Damage Hazards; Cross Liability Endorsement; and Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the Firm)

Workers Compensation. The Buyer shall provide, pay for, and maintain workers compensation insurance on all employees, its agents or subcontractors as required by Florida Statutes.

Environmental Liability Insurance. The Buyer shall provide \$2,000,000.00 per occurrence."

H. Notwithstanding anything to the contrary contained in Section 12 of the New River Agreement, by entering into this Agreement, Seller is in no manner waiving its rights of sovereign immunity or otherwise consenting to increase the limits of liability set forth in Section 768.28, Florida Statutes. Any indemnification obligation of Seller contained in this Agreement shall be strictly limited to such statutory amounts.

I. The first sentence of Section 13.1(a) of the New River Agreement is hereby revised to clarify that the Seller, Polk County, is a political subdivision of the State of Florida.

J. The addresses set forth in Section 15.1 of the New River Agreement are hereby revised as follows:

"TO SELLER: Polk County Waste & Recycling Division  
Attention: Waste & Recycling Director 10<sub>6</sub> Environmental Loop South Winter Haven, FL, 33880



TO BUYER: Polk County RNG LLC  
Attention: General Manager  
1 North Lexington Avenue White Plains, NY 10601”

K. Section 15.4(a) of the Agreement is hereby revised and replaced in its entirety as follows:

“(a) Governing Law/Venue/Attorneys’ Fees. The Parties acknowledge that this Agreement is being executed in Polk County, Florida. This Agreement and any provisions contained herein shall be governed by and construed in accordance with the laws of the State of Florida, without reference to its conflict of law principles.

Seller and Buyer each consent to the exclusive jurisdiction of, and the laying of venue in the courts of the State of Florida in Polk County, Florida, or, if such court refuses jurisdiction, the United States District Court for the Middle District of the State of Florida, located in Hillsborough County, Florida (Tampa Division). The Parties each hereby irrevocably waives its rights to request a trial by jury with respect to any matter or proceeding arising hereunder. In connection with any dispute or litigation arising out of, or relating to this Agreement, each party shall be responsible for its own legal and attorneys’ fees, costs and expenses, including attorneys’ fees, costs, and expenses incurred for any appellate or bankruptcy proceedings.”

5. Additional Provisions. The following provisions, while not appearing in the New River Agreement, are hereby added to this Agreement:

A. Public Records Law.

(a) The Buyer acknowledges the Seller’s obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and comply in the handling of the materials created under this Agreement. The Buyer further acknowledges that the constitutional and statutory provisions control over the terms of this Agreement. In association with its performance pursuant to this Agreement, the Buyer shall not release or otherwise disclose the content of any documents or information that is specifically exempt from disclosure pursuant to all applicable laws.

(b) Without in any manner limiting the generality of the foregoing, to the extent applicable, the Buyer acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records, and shall;

(1) keep and maintain public records required by the Seller to perform the services required under this Agreement;

(2) upon request from the Seller’s Custodian of Public Records or his/her designee, provide the Seller with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

(3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Buyer does not transfer the records to the Seller; and

(4) upon completion of this Agreement, transfer, at no cost, to the Seller all public records in possession of the Buyer or keep and maintain public records

required by the Seller to perform the service. If the Buyer transfers all public records to the Seller upon completion of this Agreement, the Buyer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Buyer keeps and maintains public records upon completion of this Agreement, the Buyer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Seller, upon request from the Seller's Custodian of Public Records, in a format that is compatible with the information technology systems of the Seller.

**(c) IF THE BUYER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE BUYER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE SELLER'S CUSTODIAN OF PUBLIC RECORDS AT:**

**RECORDS MANAGEMENT LIAISON OFFICER  
POLK COUNTY  
330 WEST CHURCH ST.  
BARTOW, FL 33830  
TELEPHONE: [\*\*\*]  
EMAIL: [\*\*\*]**

**B. Scrutinized Companies and Business Operations Certification: Termination.**

**A. Certification(s).**

(i) By its execution of this Agreement, the Buyer hereby certifies to the Seller that the Buyer is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, nor is the Buyer engaged in a boycott of Israel, nor was the Buyer on such List or engaged in such a boycott at the time it submitted its bid, proposal, quote, or other form of offer, as applicable, to the Seller with respect to this Agreement.

(ii) Additionally, if the value of the goods or services acquired under this Agreement are greater than or equal to One Million Dollars (\$ 1,000,000), then the Buyer further certifies to the Seller as follows:

(a) the Buyer is not on the Scrutinized Companies with Activities in Sudan List, created pursuant to Section 215.473, Florida Statutes; and

(b) the Buyer is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; and

(c) the Buyer is not engaged in business operations (as that term is defined in Florida Statutes, Section 287.135) in Cuba or Syria; and

(d) the Buyer was not on any of the Lists referenced in this subsection A(ii), nor engaged in business operations in Cuba or Syria when it submitted its proposal to the Seller concerning the subject of this Agreement.

(iii) The Buyer hereby acknowledges that it is fully aware of the penalties that may be imposed upon the Buyer for submitting a false certification to the Seller regarding the foregoing matters.

**B. Termination.** In addition to any other termination rights stated herein, the Seller may immediately terminate this Agreement upon the occurrence of any of the following events:

(i) the Buyer is found to have submitted a false certification to the Seller with respect to any of the matters set forth in subsection A(i) above, or the Buyer is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel; or

(ii) the Buyer is found to have submitted a false certification to the Seller with respect to any of the matters set forth in subsection A(ii) above, or the Buyer is found to have been placed on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, and the value of the goods or services acquired under this Agreement are greater than or equal to One Million Dollars (\$1,000,000).

C. Public Entity Crimes. Buyer understands and acknowledges that this Agreement will be voidable by the Seller in the event the conditions stated in Florida Statutes, Section 287.133 relating to conviction for a public entity crime apply to Buyer.

D. Unauthorized Alien(s).

Buyer shall not employ or utilize unauthorized aliens in the performance of the Services provided pursuant to this Agreement. The Seller shall consider the employment or utilization of unauthorized aliens a violation of Section 274A of the Immigration and Naturalization Act (8 U.S.C. 1324a) and a cause for the Seller's unilateral termination of this Agreement. When delivering executed counterparts of this Agreement to the Seller, Buyer shall also deliver a completed and executed counterpart of the attached "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS" form.

E. Employment Eligibility Verification (E-VERIFY)

A. Unless otherwise defined herein, terms used in this Section which are defined in Section 448.095, Florida Statutes, as may be amended from time to time, shall have the meaning ascribed in said statute.

B. Pursuant to Section 448.095(2)(a), Florida Statutes, effective January 1, 2021, public employers, contractors and subcontractors shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. The Buyer acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System and compliance with all other terms of this Certification and Section 448.095, Fla. Stat., is an express condition of this Agreement, and the Seller may treat a failure to comply as a material breach of this Agreement.

C. By entering into this Agreement, the Buyer becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Buyer shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Agreement, or if a subcontractor knowingly violates the statute or Section 448.09(1), Fla. Stat., the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Tenth Judicial Circuit Court of Florida no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by the Buyer, the Buyer may not be awarded a public contract for a period of 1 year after the date of termination. The Buyer shall be

liable for any additional costs incurred by the Seller as a result of the termination of this Agreement. Nothing in this Section shall be construed to allow intentional discrimination of any class protected by law.

6. Miscellaneous.

A. Entire Agreement. This Agreement sets forth the entire understanding and agreement between the parties. This Agreement may only be modified or changed in writing, and such modifications and changes signed by both parties.

B. Further Assurances. The parties agree to perform all such acts (including without limitation executing and delivering instruments and documents) as reasonably may be necessary to fully effectuate the intent and each and all of the purposes of this Agreement.

C. Interpretation. The parties agree that the terms and provisions of this Agreement embody their mutual intent and that such terms and conditions are not to be construed more likely in favor of, nor more strictly against, either party.

D. Authorizations. The execution and delivery of this Agreement, the performance of a party's obligations hereunder, and the consummation of the transactions contemplated hereby, are subject to each party's receipt of necessary consents, approvals, and/or authorizations with respect thereto.

E. Counterparts. This Agreement may be executed in counterparts (including by .pdf), each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

*[Remainder of Page Intentionally Left Blank;  
Signature and Acknowledgment Pages Follow]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Execution Date.

**ATTEST:**

STACY BUTTERFIELD  
CLERK OF THE BOARD

By: /s/Alison Holland  
Deputy Clerk

Date Signed By County 5/2/23  
\_\_\_\_\_

Reviewed as to form and legal sufficiency:  
\_\_\_\_\_  
4/24/23  
County Attorney's Office Date

**Polk County**, a political subdivision  
of the State of Florida

By: /s/George Lindsey, III, Chairman  
George Lindsey, III, Chairman  
Board of County Commissioners



**ATTEST:**

**Polk County RNG LLC**,  
a Delaware limited liability company

By: /s/ Hedyih Wilf  
Corporate Secretary

By: /s/ David Unger

Hedyih Wilf  
\_\_\_\_\_  
[Print Name]

David Unger  
\_\_\_\_\_  
[Print Name]

Date: 4/18/2023

Executive Vice President  
\_\_\_\_\_  
[Title]  
Date: 4/18/2023

# **Attachment "1"**

## **LANDFILL GAS PURCHASE AGREEMENT**

by and between

### **NEW RIVER SOLID WASTE ASSOCIATION,**

an association of political subdivisions of the State of Florida and

### **NEW RIVER RNG LLC**

a Delaware limited liability company

Dated as of October 5, 2020

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Site Plan  
Point of  
Delivery RNG  
Facility  
Technical Interconnection Between RNG Facility and the Collection System

## LANDFILL GAS PURCHASE AGREEMENT

This Landfill Gas Purchase Agreement (together with all of the Exhibits and Schedules hereto, and as amended or supplemented from time to time, "Agreement") is entered into as of October 5, 2020, between New River Solid Waste Association, a Florida municipal corporation (together with its successors and assigns, "Seller"), and New River RNG LLC, a Delaware limited liability company (together with its successors and permitted assigns, "Buyer").

### PRELIMINARY STATEMENTS

Seller owns and operates the New River Regional Landfill (the "Landfill") located at 24276 NE 157th Street, Raiford, Union County, Florida.

Seller anticipates entering into a Site Lease with PGS, pursuant to which PGS would have the right to develop, construct, and own and operate the RNG Facility at the Landfill intended to convert Landfill Gas to Renewable Natural Gas, as further described herein.

PGS and Buyer anticipate entering into an arrangement pursuant to which PGS will engage Buyer to develop, construct, and operate (including by procuring Landfill Gas) the RNG Facility.

Seller wishes to sell all Landfill Gas, and Buyer wishes to buy from Seller all Landfill Gas delivered to Buyer at the Point of Delivery for the purpose of converting the Landfill Gas to Renewable Natural Gas in the RNG Facility and selling the Renewable Natural Gas for beneficial use, all on and subject to the terms and conditions herein.

NOW, THEREFORE, in consideration of the covenants contained herein, the Parties hereto, intending to be legally bound, hereby agree as follows:

### SECTION 1 DEFINITIONS; EFFECTIVENESS

1.1 Definitions. Capitalized terms used in this Agreement, but not otherwise defined herein, shall have the meanings given to such terms below. The meanings specified are applicable to both the singular and the plural and to the masculine and feminine forms.

"Agreement" is defined in the preamble.

"Applicable Laws" means any and all applicable federal, state, county, and local laws, statutes, rules, regulations (including the Regulations and Environmental Laws), licenses, ordinances, judgments, orders, decrees, directives, guidelines or policies (to the extent mandatory), permits, and other governmental and regulatory approvals, including any and all environmental laws, or any similar form of decision or determination by, or any interpretation or administration of, any of the foregoing by any government entity with jurisdiction over Seller, the Collection System, Buyer, the RNG Facility, the Site, the Landfill, or the performance of the work under this Agreement and the transactions contemplated in this Agreement.

"Audit" is defined in Section 5.5.

"Business Day" means any day other than Saturday, Sunday, or a day on which the Federal Reserve Bank is authorized or required to be closed.

"Buyer" is defined in the preamble.

"Buyer Commodity Proceeds" means any and all consideration received by Buyer from the sale and transfer of Renewable Natural Gas or Gas (excluding Buyer Credits/Benefits); provided that if the sale and transfer is with or to a related party or to PGS and its affiliates, such consideration is determined on an arm's length basis, reflecting prices and payment terms that are consistent with customary market terms.

"Buyer Credits/Benefits" is defined in Section 2.4.

"Buyer Credits/Benefits Proceeds" means any and all consideration received by Buyer from the sale, transfer or monetization of any Buyer Credits/Benefits, less any documented, reasonable, and customary fees (including conversion costs and brokerage fees with respect to the sale and transfer of such Buyer Credits/Benefits); provided that if the conversion costs are incurred in connection with a transaction with an affiliate of Buyer or a transaction with PGS or its affiliate, such costs shall be determined on an arm's length basis, based on prices and terms that are commercially reasonable and consistent with market pricing.

"Buyer EG Option Notice" is defined in Section 2.2(b).

"Buyer Indemnified Parties" is defined in Section 12.1(b).

"Buyer's Books and Records" is defined in Section 5.5.

"Change in Law" means the enactment, adoption, promulgation, modification (including a change in interpretation by a Governmental Authority), or repeal after the Effective Date of any Applicable Law; provided that a change in any national, federal, state, or local tax law (or any other tax law based on income) shall not be a Change In Law.

"Change of Control" means any transaction or series of transactions that would result in Buyer, any affiliate of Buyer, or the RNG Facility Operator being owned or controlled directly or indirectly by (i) a Competitor; (ii) any Person or an affiliate of any Person that has been found to be in material violation of any Environmental Law; or (iii) any Person for whom the nominal value of this Agreement comprises ten percent (10%) or more of that Person's gross revenues.

"Cleanup Costs" means the costs of investigation, assessment, monitoring, testing, evaluation, analysis, cleanup, removal, containment, disposal, or remediation of any Hazardous Substance, regardless of whether sought or ordered by any Governmental Authority, a third party or as may be required under any Environmental Law.

"Collection System" means all gas extraction wells, gas lines, piping, tubing, horizontal connectors, valves, meters, filters, blowers, motors, Flares, and other equipment and instruments located in or on the Landfill that are used, now or hereafter, for the purpose of extracting, collecting or combusting Landfill Gas located up to and including the inlet at the Point of Delivery.

"Commercial and Environmental Improvements" means mutually agreed improvements to the Collection System intended to enable the Collection System to achieve the highest level of compliance with Applicable Laws while capturing the highest quantity and quality of Landfill Gas for delivery to Buyer at the Point of Delivery.

"Commercial Operation" means that Buyer has provided a certificate from an officer of Buyer that (i) all Facility Permits required to operate the RNG Facility are final, non-appealable and in full force and effect, (ii) the RNG Facility has passed commissioning and acceptance tests under PGS's construction and procurement agreements, a copy of the result of which have been provided to Seller, (iii) the RNG Facility has commenced regular operation to produce and deliver Renewable Natural Gas, and (iv) the RNG Sale Agreement is in full force and effect.

"Commercial Operation Date" means the date that the requirements for Commercial Operation are satisfied.

"Competitor" means a person owning or operating one or more landfills that are owned by a governmental, administrative, authority, department or commission of any city, county, state, or federal government.

"Condensate Acceptance Point" is defined in [Section 3.3](#).

"Condensate Specifications" means that condensate that does not contain any Hazardous Materials.

"Confidential Information" means all data, information, reports or documents developed or collected by one Party and provided or made available by the applicable Party to the other Party or its agents (i) in connection with the Landfill, the Collection System, Seller's operations, the RNG Facility, or Buyer's operations; or (ii) as a result of any of the rights granted to, or obligations undertaken by, either Party pursuant to this Agreement, whether or not designated as confidential, but shall not include information to the extent such information (v) is in the public domain at the time of disclosure, or (w) following disclosure, becomes generally known or available through no action or omission on the part of the receiving Party, or (x) is known, or becomes known, to the receiving Party from a source other than the disclosing Party or its representatives, provided that disclosure by such source is not in breach of a confidentiality agreement with the disclosing Party, or (y) is independently developed by the receiving Party or its directors, officers, employees, agents, legal counsel, or consultants without reference to the disclosing Party's Confidential Information, or (z) to the extent disclosure is required by Applicable Law.

"CNG Station" means a facility that will compress Renewable Natural Gas produced by the RNG Facility to dispense renewable fuel.

"Construction Commencement Milestone" means that Buyer has issued "notice to proceed" or similar instruction to its construction contractor to commence mobilization for construction of the RNG Facility at the site and such contractor has commenced physical construction at the Site.

"Design Requirements" is defined in [Section 4.2](#).



"Easements" has the meaning given in the Site Lease.

"Effective Date" means the first Business Day after the date that this Agreement, the Parent Guaranty together with the Letter of Financial Support, and the Site Lease have been fully executed and delivered and are in full force and effect, as notified by Seller to Buyer.

"EG Option" is defined in Section 2.2(b).

"EG Notice" is defined in Section 2.2(a).

"Environmental Law" means Applicable Law relating to: (i) the natural environment or Hazardous Substances; (ii) the handling, use, storage, treatment, transport, disposal, Release, or threatened Release of any Hazardous Substances; or (iii) noises or odors, including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. and the Clean Air Act, 42 U.S.C. §§ 7401 et seq.

"Environmental Liability" means any liability in connection with a proceeding, claim, complaint, suit, demand, demand letter, lien, request for information, notice of non-compliance or violation, investigation, order, consent judgment, consent agreement, consent decree, judgment, encumbrance, or lien issued or brought by any Governmental Authority or a third party (including employees, contractors, or agents of either Party) relating in any way to any Environmental Law or Hazardous Material.

"Environmental Losses" means any and all Losses, Cleanup Costs, Environmental Liability, liability for personal injury or property damage, and the costs of any corrective or preventive action at or remediation of the Site or the areas around the Site or the Easements as a result of any and all third-party (including for this purpose any Governmental Authority): (i) claims; (ii) demands; (iii) suits; (iv) penalties; (v) causes of action; or (vi) proceedings.

"Estimated Royalty" means for any month, the Royalty Payments calculated by multiplying the relevant percentage provided in the definition of Royalty Payment by Estimated Project Revenues (rather than "Project Revenues"). Estimated Project Revenues shall be calculated as follows:

$$\text{Estimated Project Revenues} = A * (B + C)$$

Where:

A: [\*\*\*] MMBtu/month. Except as used in Section 4.4(d) and Section 15.3, such amount shall be increased or decreased to the extent that Landfill Gas made available by Seller is greater or less than [\*\*\*] scfm at [\*\*\*] percent ([\*\*\*]%) methane on a weighted average basis over the prior twelve (12) months. For the avoidance of doubt, the Parties acknowledge that [\*\*\*] scfm and [\*\*\*] percent ([\*\*\*]%) methane are targets and not commitments by Seller to deliver a certain quantity or quality of Landfill Gas.

- B: the monthly Henry Hub gas price (based on the average price as reported by Natural Gas Intelligence for the given month); provided that if an average monthly gas price has not been reported by Natural Gas Intelligence, then a substitute index reasonably acceptable to both parties.
- C: RIN Price, which shall be the average daily price for the given month as reported in the index published by OPIC for D3 RINs (or if such index is no longer published, an index that is the nearest approximation thereof), multiplied by [\*\*\*] percent ([\*\*\*]%).

"Event of Default" is defined, as applicable, in Section 10.1 or Section 10.2.

"Excess Gas" means Landfill Gas in excess of the sum of (i) Required Gas plus (ii) Landfill Gas used by Seller in the operation of the Landfill in accordance with the Seller Permits.

"Expenditure Fund" is defined in Section 5.8(a).

"Facility Permit" means any Permit required by any Governmental Authority for: (i) the design, development, construction, operation, monitoring, testing, maintenance, repair, replacement, closure, and decommissioning of the RNG Facility, (ii) the transportation of Renewable Natural Gas to the Gas Distribution System, and (iii) the sale of Renewable Natural Gas.

"Financing Party" means any bank, institutional lender, or other financial institution providing extensions of credit to, or any financing of, Buyer's interest in the RNG Facility.

"First Milestone Date" is defined in Section 4.4(a).

"Flare" means the equipment at the Landfill used for the combustion or burning off of Landfill Gas, including the existing flare located on the Landfill as of the date hereof and any additional flares that may be located on the Landfill in the future.

"Force Majeure" means any cause that delays, limits, or prevents a Party's ability to perform its obligations under this Agreement that is not reasonably within the control of and without the fault or negligence of the affected Party, to the extent that by the exercise of reasonable diligence such Party is unable to prevent, limit, mitigate, or overcome, including acts of war or conditions attributable to war, labor disputes, acts of God, Unusual Weather Events, sabotage by third Parties, civil commotion, enactment after the Effective Date of statutes, laws, or ordinances by legislative bodies, issuance of regulations or orders by administrative agencies or commissions, and action by federal, state, municipal, or regulatory courts that have a disproportionate adverse effect on the RNG Facility when compared to other Renewable Natural Gas processing facilities located in United States. "Force Majeure" shall not include, under any circumstances, inability to meet financial obligations. For the purposes of this Agreement, the requirement that "Force Majeure" be a cause not within the control of the affected Party that by the exercise of reasonable diligence such Party is unable to prevent, limit, mitigate, or overcome shall not include labor actions specifically directed at the affected Party as distinct from a general strike or widespread labor action affecting business generally.

"Gas" means the Renewable Natural Gas as to which the rights to the associated Renewable Buyer Credit/Benefits have been detached by contract and conveyed to a third party.

"Gas Distribution System" means the natural gas pipeline distribution system to which Buyer will deliver the Renewable Natural Gas at the Site.

"Good Engineering Practices" means those engineering practices that a prudent engineer or operator would employ in the ordinary course of business and conduct of design, construction, and operations in the solid waste, landfill gas recovery and landfill gas processing industries, as applicable, under the same or similar circumstances, to accomplish the desired result in a commercially reasonable manner in compliance with all Applicable Laws.

"Governmental Authority" means any governmental, administrative, judicial or municipal authority, including any ministry, department, municipality, city, instrumentality, agency, court, or commission under direct or indirect control of any city, county, state, or federal government, including any self-regulatory organization, applicable.

"Guaranteed Commercial Operation Date" or "GCOD" is defined in Section 4.4(d).

"Guarantor" means Fortistar LLC.

"Hazardous Materials" means any oil or other petroleum products, pollutants, contaminants, toxic, or hazardous substances or other substances and materials from time to time regulated under any Environmental Law, including the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980; the Resource Conservation and Recovery Act of 1976, and the Toxic Substances Control Act of 1976 and any state or local laws all as amended from time to time.

"Initial Term" is defined in Section 7.1.

"Interconnection Point" or "Interconnection Points" means the interconnection points at which the RNG Facility connects to, or delivers Renewable Natural Gas or Gas to, the Gas Distribution System.

"Interconnection Agreement" means an interconnection agreement between Buyer and the owner of the Gas Distribution System providing for the interconnection of the RNG Facility with the Gas Distribution System at the Interconnection Point for the term of this Agreement.

"Interconnection Agreement Milestone" means that the Interconnection Agreement has been executed and delivered and is in full force and effect.

"Landfill" is defined in the preamble and includes all past, current, and future disposal cells and all other contiguous real property owned or controlled by Seller and used for the disposal of municipal solid waste; provided that real property shall be deemed contiguous if separated only by a public right of way, utility easement, or roadway.

"Landfill Gas" means methane, carbon dioxide, and other gases that are produced from the decomposition of refuse and other solid wastes collected for disposal in, or on, the Landfill and collected by the Collection System.

"Landfill Gas Benchmark" means landfill gas with carbon dioxide, hydrogen sulfide, methane and nitrogen content that is within the range of processing capabilities of similarly sized renewable natural gas processing facilities located in the United States that have been constructed after January 1, 2010. The Landfill Gas Benchmark is not a single specification, but rather a range of commercially reasonable specifications.

"Landfill Permit" means the operating permit issued to Seller by the Florida Department of Environmental Protection under Title V of the Clean Air Act, a copy of which has been delivered to Buyer.

"Lessee" means PGS or its permitted assignee under the Site Lease in accordance with its terms.

"Letter of Financial Support" means a letter delivered by Bessemer Trust to Seller attesting to the financial resources available to the Guarantor to support its obligations under the Parent Guaranty.

"Losses" means any and all damages, losses, fines, penalties, fees, costs, and expenses paid or incurred (including reasonable legal fees and consultant fees) as a result of any third-party: (i) claims; (ii) demands; (iii) suits; (iv) penalties; (v) causes of action; or (vi) proceedings.

"Major Components" means the Air Liquide gas processing equipment and associated compressors.

"Major Milestone" or "Major Milestones" means, collectively and individually: (i) the First Milestone; (ii) the Procurement Contract Milestone; (iii) the Construction Commencement Milestone, and (iv) the Commercial Operation Date.

"Major Milestone Dates" means the First Milestone Date, Procurement Contract Milestone Date, Construction Milestone Date, and the Guaranteed Commercial Operation Date.

"Month" means a calendar Month.

"Monthly Statement" means a written statement provided by Buyer as provided in Section 6.3.

"Operating Year" means the twelve (12) Month period (including any partial Month) starting on the Commercial Operation Date and every twelve (12) Month period thereafter starting on the anniversary of the Commercial Operation Date.

"Option Gas" is defined in Section 2.2(b).

"Parent Guaranty" means the guaranty by Guarantor of the obligations of Buyer hereunder through the Commercial Operation Date for the benefit of Seller, in form and substance satisfactory to Seller.

"Party" means either Buyer or Seller, individually.

"Parties" means Buyer and Seller, collectively.

"Permit" means any permit, authorization, waiver, variance, license, requirement, registration, and approval issued by any Governmental Authority.

"Person" means any natural person or any association, firm, partnership, joint venture, corporation, limited liability company, or other legally recognized entity, whether for profit or not for profit.

"PGS" means Peoples Gas System, a division of Tampa Electric Company.

"Point of Delivery" means the interconnection point at which the Collection System connects to the RNG Facility as shown on Exhibit A-1.

"Pre-Commercial Operations Period" means the period beginning with the first production of Renewable Natural Gas by the RNG Facility as notified to Seller by Buyer, and ending on the Commercial Operation Date, during which period Buyer shall be entitled to use, and shall accept from Seller, that amount of Landfill Gas that Buyer reasonably determines is necessary for the purpose of startup and testing of the RNG Facility.

"Procurement Contract Milestone" is defined in Section 4.4(b).

"Procurement Contract Milestone Date" is defined in Section 4.4(b).

"Project Revenues" means for the full or partial Month in which the first day of the Pre Commercial Operations Period begins and for every Month or partial Month thereafter, the sum of Buyer Commodity Proceeds plus the Buyer Credit/Benefits Proceeds received for that partial Month or full Month, as the case may be.

"Prudent Industry Practices" means the practices, methods, techniques, standards, and acts that (i) are generally accepted for use in connection with the design, procurement, engineering, construction, testing, operation, and maintenance of landfills and landfill gas processing facilities, as applicable, all in compliance with Applicable Laws and Permits, and consistent with reliability, safety, environmental protection, good workmanship, applicable professional and legal codes and standards, and efficiency, (ii) are consistent with Good Engineering Practices, and (iii) conform in all respects to all manufacturer design, engineering, construction, testing, operation, and maintenance guidelines applicable to all or any portion of the Collection System or the RNG Facility, as applicable.

"Project Schedule" is defined in Section 4.3.

"Regulations" means the requirements of all federal, state, and local laws, ordinance and regulations, and any rules or orders of any regulatory body governing the operation of the Landfill, the Collection System or the RNG Facility, including the terms of or requirement for any Permits relating thereto.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance.

"Remedial Action Plan" means a written plan for completing the Buyer Facilities consistent with the Project Schedule and the other requirements of this Agreement and that is reasonably achievable in the context of the facts and circumstances at the time.

"Renewable Natural Gas" means renewable natural gas that is produced from Landfill Gas processed by Buyer at the RNG Facility.

"Renewable Energy Credits/Certificates" means emissions or other environmental credits or certificates created by the production of Renewable Natural Gas from Landfill Gas related to the environmental benefits thereof, under state or federal law, as the same may be amended from time to time.

"Required Gas" is defined in Section 2.1(a).

"Requirements" means Applicable Law, Regulations, this Agreement, the Facility Permits, the Seller Permits, the Site Lease, and Prudent Industry Practices.

"RINs Monetization Agreement" means the agreement between Buyer and TruStar on terms no less favorable to Buyer than could be obtained in an arm's length transaction, for (i) the purchase of the Renewable Natural Gas at the Interconnection Point by TruStar (ii) the dispensing of Renewable Natural Gas by TruStar including TruStar's obligation to create the Buyer Credits/Benefits from the Renewable Natural Gas, (iii) the sale of such Buyer Credits/Benefits promptly thereafter, and (iv) the resale to Buyer of the Gas and related fees.

"RINs Monetization Agreement Milestone" means that the RINs Monetization Agreement has been fully executed and delivered and is in full force and effect.

"RNG Facility" means the RNG Facility Equipment and associated structures installed by PGS at the Site and within the Easements for the purpose of generating and delivering Renewable Natural Gas to the Interconnection Point, as further described on Exhibit B. The RNG Facility does not include the Collection System up to the inlet at the Point of Delivery.

"RNG Facility Equipment" means all equipment for generating Renewable Natural Gas after and including the outlet at the Point of Delivery up to the Interconnection Point.

"RNG Facility Operator" means either the owner of the RNG Facility or the Person that the owner has engaged by written contract to assume the day-to-day responsibility for the operation

and maintenance of the RNG Facility and the purchase of Landfill Gas, in either case, which Person shall be party to this Agreement or a replacement hereof as agreed by Seller.

"RNG Sale Agreement" means an agreement between Buyer and PGS for the delivery and sale to PGS at the Interconnection Point of all of the Gas for so long as this Agreement is in effect.

"RNG Sale Agreement Milestone" means that the RNG Sale Agreement has been fully executed and delivered and is in full force and effect.

"Royalty Payment" means the following:

- (i) an amount equal to **[\*\*\*]** percent (**[\*\*\*]**%) of Project Revenues for the first (1st) **[\*\*\*]** Dollars (**[\$\*\*\*]**) of Project Revenues received by Buyer in each Operating Year; plus
- (ii) an amount equal to **[\*\*\*]** percent (**[\*\*\*]**%) of Project Revenues in excess of **[\*\*\*]** Dollars (**[\$\*\*\*]**) received in the same Operating Year.

"Seller" is defined in the preamble.

"Seller Indemnified Parties" is defined in Section 12.1(a).

"Seller Permits" means the Landfill Permit and each other Permit that Seller has obtained or is required to obtain in connection with the ownership or operation (including closure) of the Landfill.

"Site" is described in Exhibit A.

"Site Lease" means the agreement pursuant to which Seller leases the Site to PGS or its permitted assign for the construction, operation, maintenance and interconnection of the RNG Facility, in form and substance satisfactory to Seller.

"Term" means the Initial Term and any extension thereof in accordance with Section 7.1. "TruStar" shall mean TruStar Energy LLC.

"Unusual Weather Events" means weather conditions at the Site which fall outside of the most recent ten (10) year historical mean plus two standard deviations using National Oceanic Atmospheric Administration weather data from a reporting station located at or around Gainesville, Florida.

1.2 Interpretation.

- (a) Where the context requires, words imparting the singular shall include the plural and vice versa.

(b) A reference in this Agreement to any Section, Clause, Exhibit, or Schedule is a reference to such Section, Clause, Exhibit, or Schedule of this Agreement, except where it is expressly stated to the contrary or the context otherwise requires.

(c) Headings are for convenience of reference only and shall not be used for purposes of construction or interpretation of this Agreement.

(d) Each reference to any document, contract, or agreement (including this Agreement) shall (i) be construed at the particular time as a reference to such agreement, document or contract as amended, varied or supplemented and in effect from time to time; and (ii) include all exhibits, schedules, and other attachments thereto.

(e) Each reference to any Applicable Law shall be construed as a reference to such Applicable Law as it may have been, or may from time to time be, amended, replaced or re enacted and shall include any subordinate legislation, rule or regulation promulgated under any such laws.

(f) The terms "hereof", "herein", "hereto", "hereunder", and words of similar or like import, refer to this entire Agreement and not any one particular Article, Section, Schedule, or other subdivision of this Agreement.

(g) Any accounting terms used but not expressly defined herein shall have the meanings given to them under generally accepted accounting principles of the United States of America as consistently applied by the Person to which they relate.

(h) In computing any period of time prescribed or allowed under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall be included. If the last day of the period so computed is not a Business Day, then the period shall run until the close of business on the immediately succeeding working day.

(i) Any reference in this Agreement to any natural person, Governmental Authority, corporation, partnership or other legal entity includes its permitted successors and assigns or to any natural person, Governmental Authority, corporation, partnership or other legal entity succeeding to its functions.

(j) The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The term "or" when used in this Agreement shall be interpreted as "and/or" and shall not be exclusive.

### 1.3 Limited Effectiveness Prior to Effective Date.

(a) As of the date hereof, neither the Site Lease nor the Parent Guaranty has been executed and delivered, and the Effective Date has not occurred.

(b) As of the date hereof, the following Sections and Exhibits are in full force and effect: Section 1, Section 4.1, Section 4.2, Section 4.3, Section 4.4, Section 4.5, Section 4.9, Section 4.10, Section 4.11, Section 5.6, Section 6.5, Section 7, and Section 10 through Section 15, inclusive, of this Agreement, which Sections, for the avoidance of doubt, include all subsections



thereof, and each of the Exhibits hereto. All other provisions of this Agreement shall come into full force and effect as of the Effective Date.

(c) The Parties shall use commercially reasonable efforts from and after the date hereof to achieve the Effective Date.

## SECTION 2 SALE AND PURCHASE OF LANDFILL GAS

### 2.1 Sale and Purchase of Landfill Gas.

(a) Subject to the terms and conditions of this Agreement, from and after the Pre-Commercial Operation Period and continuing throughout the Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase and receive from Seller all Landfill Gas available after reserving the Landfill Gas that is required for the operation of the Landfill in accordance with the Seller Permits and Prudent Industry Practices, up to the RNG Facility Landfill Gas inlet maximum capacity as of the Commercial Operation Date ("Required Gas"), or such lesser amount as may be required during the Pre-Commercial Operation Period. Seller shall use commercially reasonable efforts to reduce the quantity of Required Gas needed for compliance with Seller's Permits. Landfill Gas that is not delivered to and sold to Buyer hereunder may be used or destroyed by Seller in its sole discretion.

(b) During those outages described in Section 4.11, Buyer shall have no obligation to receive Landfill Gas and Seller shall have no obligation to deliver the Landfill Gas. Notwithstanding anything herein, Seller shall not be required to produce any minimum quantities of Landfill Gas.

(c) ALL LANDFILL GAS SHALL BE TAKEN BY BUYER IN AN "AS IS" CONDITION. BUYER REPRESENTS AND WARRANTS THAT IT HAS DONE ITS OWN DUE DILIGENCE AS TO THE QUANTITY AND QUALITY OF LANDFILL GAS AVAILABLE AT THE LANDFILL AND THAT SELLER MAKES NO WARRANTY CONCERNING THE QUANTITY OF LANDFILL GAS AVAILABLE OR ITS QUALITY. ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND DO NOT APPLY TO THE LANDFILL GAS SOLD HEREUNDER.

(d) Without limiting Section 2.1(c), following the Effective Date and prior to commencement of any construction activities at the Site, Seller and Buyer shall cooperate in good faith to determine whether Seller can reduce the nitrogen content of the Landfill Gas delivered to the Point of Delivery without Seller incurring material additional costs for the operation or maintenance of the Landfill or the Collection System. Subject to the terms and conditions herein, and to the Seller's Permits and Prudent Industry Practices, including scheduled and unscheduled maintenance of the Landfill and the Collection System, Seller shall not take any action that materially interferes or impedes the quality, flow and quantity of Landfill Gas to the RNG Facility.

(e) Seller shall make the Required Gas available to Buyer at the Point of Delivery on a first priority basis before any other uses. Except as provided in this Agreement,

Seller shall have no further rights or obligations related to the Landfill Gas after it is delivered to Buyer at the Point of Delivery. Landfill Gas delivered to and received by Buyer shall be converted by Buyer to Renewable Natural Gas at the RNG Facility in accordance with the Requirements, and Buyer shall not discharge or release the Landfill Gas or any constituent thereof in violation of any Requirements. Buyer shall have no obligations related to the Landfill Gas prior to receiving it at the Point of Delivery, other than as set forth herein. Seller shall retain title and risk of loss to the Landfill Gas until the Landfill Gas is delivered to the Point of Delivery, whereupon title and risk of loss shall transfer to Buyer.

2.2 Excess Gas.

(a) So long as the RNG Facility has achieved Commercial Operation and no Event of Default of Buyer has occurred and is continuing hereunder, Seller shall give Buyer at least ninety (90) days' prior notice of any plans by Seller to sell Excess Gas to a third party or plans to begin using Excess Gas for a commercial purpose (the "EG Notice").

(b) By notice to Seller delivered not later than thirty (30) days following delivery of the EG Notice (the "Buyer EG Option Notice"), Buyer may offer to purchase all or a designated portion of the Excess Gas from Seller (the "EG Option"). The Buyer EG Option Notice shall include (i) detailed terms on which Buyer proposes to purchase the Excess Gas, (ii) the quantity of Excess Gas Buyer proposes to purchase (such quantity, the "Option Gas"), (iii) the date that Buyer anticipates commencing purchase of the Option Gas. Following delivery of the Buyer Option Notice, the Parties shall negotiate in good faith for up to thirty (30) days (or such longer period as the Parties may agree in writing, each in its sole discretion) to agree on the terms and enter into definitive documentation (which may be in the form of an amendment to this Agreement) for the purchase and sale of the Option Gas. If Buyer and Seller do not enter into such definitive agreements during such period, or if Buyer does not timely deliver a Buyer EG Option Notice, then Seller shall have no further obligation to Buyer related to the Excess Gas, and shall have the right to use or convey to a third party the Option Gas that is the subject of the Buyer EG Option Notice and, for the avoidance of doubt, all or any portion of the Excess Gas. If within twenty (20) months following Buyer's delivery of the Buyer EG Option Notice, Seller has not entered into definitive agreements to sell the Option Gas or otherwise use the Option Gas for a commercial purpose, then Seller shall again have an obligation to provide Buyer with an EG Notice in respect of Option Gas and Buyer shall again have the rights hereunder with regard to Option Gas.

2.3 Technical Interconnection. Following the Effective Date, Buyer and Seller shall in a timely manner take the actions required by each of them as set forth in Exhibit C in order to establish the physical interconnection as described therein between the Collection System and the RNG Facility at the Point of Delivery. The respective costs of such actions shall be borne by the applicable Party. If the RNG Facility is expanded as provided by this Agreement, then, without limitation of Section 5.1, Seller shall reasonably cooperate with Buyer in the development, design, and construction of any additional interconnection facilities necessary to deliver additional Landfill Gas to the RNG Facility for conversion to Renewable Natural Gas.

2.4 Credits/Benefits. Without limitation of Buyer's obligation to make Royalty Payments in respect of Buyer Credit/Benefits Proceeds, Buyer shall retain all rights to any tax, emission or other credits, certificates, or other environmental incentives related to environmental

benefits, including carbon credits, greenhouse gas credits, Renewable Identification Numbers for the Renewable Fuel Standards, Renewable Energy Credits/Certificates, or similar credits or certificates or other economic benefits related to (a) the operation of the RNG Facility and the sale of Renewable Natural Gas generated therefrom or (b) the processing of Landfill Gas from and after Buyer takes title thereto at the Point of Delivery (the "Buyer Credits/Benefits"). Buyer shall also retain title to all Buyer Credits/Benefits in existence as of the Effective Date and modified by a Change in Law and any new Buyer Credits/Benefits resulting from a Change in Law after the Effective Date.

2.5 Buyer's Transactions. Buyer shall sell, dispose, transfer or assign Renewable Natural Gas and Buyer Credits/Benefits in exchange for cash consideration of not less than fair market value.

### SECTION 3 SELLER'S RIGHTS AND OBLIGATIONS

3.1 Operation of Facility; Permits. Seller shall be responsible for the permitting, design, development, construction, operation, monitoring, testing, maintenance, repair, replacement, and closure of the Collection System and for any additions and modifications to and expansions of the Collection System required under the Seller Permits. Seller shall be responsible for all costs and expenses described in the previous sentence of this Section 3.1. Seller shall construct, operate, maintain and repair the Collection System in accordance with Prudent Industry Practices and applicable regulations and the Seller Permits, and subject thereto, shall operate the Collection System at all times in a manner designed to maximize the flow of Landfill Gas to the Point of Delivery up to the Required Gas. Seller shall seek such modifications to the Seller Permits in connection with the Landfill as may be necessary to permit same, including in connection with an expansion of the Collection System as provided in Section 5.1; provided that: (a) no such modification shall limit the operation, maintenance or construction of the Landfill, (b) no such modification shall materially increase Seller's cost to operate the Landfill, including the Collection System and (c) Buyer shall have provided Seller with the information and documentation about the RNG Facility required to be submitted in order to submit proper, accurate and complete application for such modifications. Seller shall cooperate with Buyer to assist Buyer (at Buyer's expense) in obtaining all Facility Permits.

3.2 Compliance with Requirements. Seller shall perform its obligations related to the Collection System in accordance with the Requirements, and shall perform and complete all work related to the Collection System in accordance with Prudent Industry Practices.

3.3 Disposal of Condensate. Buyer may deliver condensate from the RNG Facility to Seller at a location at the Landfill to be agreed by the Parties prior to commencement of any construction activities at the Site (such location, the "Condensate Acceptance Point"). Buyer shall install at its expense a flange to facilitate such delivery at the Condensate Acceptance Point. Seller shall accept only condensate that conforms to the Condensate Specifications, and Seller shall have the right to collect and test samples of condensate from the RNG Facility to confirm compliance with the Condensate Specifications. Seller shall dispose of all condensate delivered to the Condensate Acceptance Point in accordance with Applicable Laws and Regulations. Buyer shall dispose of all industrial wastewater, Hazardous Materials and other contaminants generated from

or in connection with the RNG Facility in a properly licensed facility in accordance with Applicable Law. If, as a result of taking Buyer's condensate, Seller is required to make any additional payment, obtain additional Permits, or conduct additional testing in excess of such payment, testing or Permits as Seller is required to make, obtain, or conduct in connection with the disposal of its own leachate or condensate, then, at Seller's request, Buyer shall promptly reimburse Seller for such additional payments or the reasonable, documented, incremental out-of-pocket costs of obtaining such additional Permit(s) or conducting such additional testing.

3.4 Down Time Notice. Unless prevented by an emergency situation or condition, Seller shall notify Buyer if it becomes aware of a scheduled event that would reasonably be expected to result in, a material disruption in the flow of Landfill Gas, including maintenance activities, at least five (5) business days in advance of the proposed commencement thereof, and the Parties shall cooperate and coordinate any down time to minimize such disruption and any interference with the operation of the RNG Facility. In the event of emergency situation or condition that does result in, or would reasonably be expected to result in, a material disruption in the flow of Landfill Gas, Seller shall provide Buyer with notice as soon as reasonably possible following the occurrence of such emergency situation or condition, such notice to include an estimate of the time needed to restore operations, and Seller shall use commercially reasonable efforts in accordance with Prudent Industry Practices to eliminate or minimize such disruption.

#### **SECTION 4 BUYER'S OBLIGATIONS**

##### 4.1 Permitting.

(a) Buyer shall be responsible for (i) procuring the Facility Permits, including zoning and land use approvals, and for all costs and expenses associated therewith and (ii) for obtaining all third party studies in connection with the RNG Facility required to obtain the Facility Permits and otherwise in accordance with Prudent Industry Practices, including environmental studies, and geotechnical studies.

(b) All applications prepared by or for Buyer (including supporting materials) for the Facility Permits shall be provided to Seller for review prior to submission to the applicable Governmental Authority. Seller shall provide either its approval or any objections to Buyer within ten (10) Business Days of receipt. If Seller provides objections to such applications, Buyer shall use commercially reasonable efforts to make such revisions as reasonably requested by Seller. Buyer shall keep Seller informed of the status of its applications for all Facility Permits.

(c) At all times during the Term, Buyer shall, at its sole cost and expense, be responsible to obtain and maintain in effect as required in accordance with Applicable Laws, all Facility Permits required in connection with the installation, construction, expansion, modification, operation, and maintenance of the RNG Facility, and Buyer shall comply in all material respects with the terms and conditions of such Facility Permits.

4.2 Design. Without limitation of PGS's obligations under the Site Lease, prior to the commencement of any construction, installation, or material modification (including expansion) of the RNG Facility, Buyer shall, at its sole cost and expense, engage an engineer qualified in the

State of Florida to prepare plans and specifications in sufficient detail to show that the design and appearance of the RNG Facility does not violate the Requirements, and complies with the reasonable requirements of Seller, including with respect to noise, appearance, odor, and security ("Design Requirements"). Buyer shall submit such plans and specifications to Seller for Seller's comments. Within twenty (20) Business Days after Buyer's submission of the plans and specifications to Seller, Seller shall notify Buyer in writing of any comments or requested revisions to the plans and specifications, and in such event Buyer shall make such revisions as reasonably requested by Seller; provided that Seller's requested revisions shall be limited to revisions required in order that the plans and specifications are consistent with the Design Requirements. Seller's failure to provide comments or requested revisions with the twenty (20) Business Day period provided by this Section 4.2, shall be deemed acceptance of Buyer's plans and specifications. Buyer may make reasonable deviations from the plans and specifications approved by Seller without further approval by Seller; provided such changes do not materially or substantively alter the designs or specifications approved by Seller and are otherwise consistent with the Design Requirements of this Section 4.2. Seller's review of Buyer's plans and specifications shall not affect or waive any obligation or responsibility of Buyer hereunder, nor create any liability of Seller in connection with the Buyer's Facility.

4.3 Construction Schedule, Progress Reports, Remedial Action Plans. Without limitation of Section 4.4, within 30 days of the date hereof, Buyer shall provide to Seller a detailed schedule for the construction of the RNG Facility consistent with the Major Milestone Dates (the "Project Schedule"). During the period prior to the Commercial Operation Date, Buyer shall provide monthly progress reports describing the progress of permitting, development, and construction of the RNG Facility. Buyer may extend each of the Major Milestones Dates on a day-for-day basis for each day that an event of Force Majeure that occurs following the Effective Date or Event of Default by Seller delays or prevents achieving the Major Milestone. If the actual progress of the construction and installation by the Buyer indicates that completion of a Major Milestone is or is reasonably expected to be more than thirty (30) days behind the Project Schedule for reasons other than a Force Majeure, or if at any time, the Commercial Operation Date has not occurred or is reasonably expected to not occur by the Guaranteed Commercial Operation Date, then, without limitation of Buyer's obligations or Seller's rights and remedies hereunder, Buyer shall submit to Seller and the Remedial Action Plan within ten (10) days of becoming aware that the applicable Major Milestone will not be completed in accordance with the Project Schedule and thereafter shall diligently implement the Remedial Action Plan.

#### 4.4 Major Milestones.

(a) RNG Sale Agreement Milestone; RINs Monetization Agreement Milestone. Each of the RNG Sale Agreement Milestone, the RINs Monetization Agreement Milestone and the and the Interconnection Agreement Milestone shall be achieved not later than ninety (90) days after the date hereof (the "First Milestone Date"), as such date may be extended as provided in Section 4.3. If Buyer fails to achieve any such milestone by such date, as that date may be extended as provided in Section 4.3, then Buyer shall provide a Remedial Action Plan to Seller. Buyer shall diligently implement the Remedial Action Plan.

(b) Procurement Contract Milestone. Unless extended as provided in Section 4.3, the Procurement Contract Milestone shall be achieved sixty (60) days following the First

Milestone Date (the "Procurement Contract Milestone Date"). To achieve the "Procurement Contract Milestone", Buyer shall have: (i) entered into one or more contracts for the procurement of the Major Components, which contracts shall be in full force and effect, and (ii) such contracts shall provide for the manufacturing, and delivery, of the Major Components to the Site in accordance with the Project Schedule. If Buyer fails to achieve the Procurement Contract Milestone by the Procurement Contract Milestone Date, then Buyer shall provide a Remedial Action Plan to Seller and shall use commercially reasonable efforts to implement the Remedial Action Plan.

(c) Construction Commencement Milestone. Unless extended as provided in Section 4.3, the Construction Commencement Milestone shall be achieved one hundred eighty (180) days following the Procurement Contract Milestone Date (the "Construction Milestone Date"). If Buyer fails to achieve the Construction Commencement Milestone by the Construction Milestone Date, then Buyer shall provide a Remedial Action Plan to Seller and shall use commercially reasonable efforts to implement the Remedial Action Plan.

(d) Guaranteed Commercial Operation Date. Buyer shall achieve the Commercial Operation Date, as may be extended as provided in Section 4.3, for the RNG Facility by the later of five hundred and forty (540) days from the Construction Commencement Milestone Date or eight hundred and seventy (870) days after the date hereof (the "Guaranteed Commercial Operation Date" or "GCOD"). If Buyer fails to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date, then Buyer shall pay Seller the amounts identified in the following table for the periods associated with those payments for each Month or portion of a Month following the Guaranteed Commercial Operation Date, such payment to be made not later than the fifteenth (15<sup>th</sup>) day of each Month for the prior Month. For the avoidance of doubt, Buyer's obligation to make the payments provided for in the preceding sentence shall be in effect regardless whether or not, or as of when, the Effective Date has occurred.

Time Period from GCOD	Percentage of Estimated Royalty Payment
GCOD through [***] Days	[***]%
Day [***] through [***] Days	[***]%
Day [***] through [***] Days	[***]%
Day [***] until Commercial Operation has been achieved.	[***]%

Amounts due for portions of a Month shall be prorated based on the portion of the Month for which the applicable payment is in effect. Payment obligations accrued and unpaid under this Section 4.4(d) shall survive termination of this Agreement.

(e) Sole and Exclusive Remedy. Buyer's sole obligation for Buyer's failure to achieve a Major Milestone other than the Guaranteed Commercial Operation Date shall be to timely deliver and use commercially reasonable efforts to implement each applicable Remedial Action Plan. The Parties acknowledge that the payment of the amounts set forth in Section 4.4(d) are liquidated damages and such damages are in lieu of actual damages that would be substantial but difficult or impossible to determine, that otherwise obtaining an adequate remedy is

inconvenient, and that the liquidated damages are not a penalty and constitute a reasonable approximation of the harm or loss.

(f) Buyer shall notify Seller in writing upon the completion of each Major Milestone and provide supporting documentation as reasonably requested by Seller.

4.5 Background Screening. The Landfill is located on land adjacent to land owned by the State of Florida Department of Corrections (FDOC) and requires all Persons entering the Landfill to pass a background screening review. Buyer shall be responsible for performing background screening of all Buyer's personnel, including its contractors' and subcontractors' personnel entering the Landfill. Screening criteria will meet the requirements established by the FDOC from time to time during the Term. Buyer shall ensure that persons not meeting such screening requirements are not present at the Landfill. Upon request, Buyer shall deliver to Seller evidence of Buyer's conduct of such screening.

4.6 Construction, Operation, and Maintenance of RNG Facility.

(a) Without limitation of PGS's obligations under the Site Lease, Buyer shall be responsible for (i) the construction, operation, monitoring, testing, maintenance, repair, replacement, closure, and decommissioning and removal of the RNG Facility, (ii) for any additions and modifications to and expansions of the RNG Facility provided for herein or otherwise agreed by Seller, and (iii) for all costs and expenses associated therewith.

(b) Buyer shall construct the RNG Facility, including any modification or expansion thereof, in accordance with the Requirements and Facility Permits, and shall perform and complete all work related to the RNG Facility in a professional, good, and workmanlike manner applying Prudent Industry Practices. Subject to any applicable confidentiality obligations, Buyer shall provide Seller with copies of design specifications and performance guaranties received from the major contractor engaged by Buyer to construct Buyer's Facility.

(c) Buyer shall maintain, operate, improve, and preserve the RNG Facility and the Site at all times in good working order and in a neat and clean condition, ordinary wear and tear excepted, in compliance with the Requirements and Facility Permits. Buyer shall ensure that the construction, operation, and maintenance of the RNG Facility does not have an adverse impact on the Landfill and adjoining properties, including with respect to noise, odor, safety, appearance, and security. Buyer shall have at all times at least one employee or other authorized representative at the Site or on call, and if such Person is not on the Site, available to be at the Site promptly as reasonably required or requested by Seller.

4.7 Production of Renewable Natural Gas. Buyer shall operate the RNG Facility to maximize the production of Renewable Natural Gas and shall maintain the RNG Sale Agreement in full force and effect providing for the delivery and sale of the Renewable Natural Gas to PGS. Buyer shall notify Seller within five (5) Business Days of any event or occurrence that could result or has resulted in the termination of the RNG Sale Agreement (or in the event that at any time there is no RNG Sale Agreement or any other agreement for the delivery or sale of the Renewable Natural Gas in effect).

4.8 Compliance with Law.

(a) Buyer shall ensure that the operation of the RNG Facility does not cause Seller to be in violation of any Applicable Law or Permit in connection with the Landfill.

(b) Buyer shall install, construct, expand, modify, operate, and maintain the RNG Facility, including by the installation and operation of additional equipment or other improvements as necessary to ensure ongoing compliance with Applicable Laws. All such modifications shall be subject to Seller review in accordance with Section 4.2.

(c) Buyer shall provide Seller all the information required in order for Seller to remain in strict compliance at all times with the Seller Permits, including with respect to any modifications to the Landfill Permit required for the construction and operation of the RNG Facility. Buyer shall provide to Seller all such information, in form and substance satisfactory to Seller, not less than thirty (30) days prior to the date such information is required for any reporting and other submissions in accordance with the Landfill Permit. Buyer acknowledges that it has reviewed the Landfill Permit and understands the scope and the timing of its obligations under this Section 4.8(c).

#### 4.9 Non-Interference with Landfill Operation.

(a) Buyer acknowledges that the management and operation of the Landfill in compliance with the Seller Permits and Applicable Laws and Regulations shall take precedence over Seller's obligations to Buyer hereunder; provided that Seller shall use commercially reasonable efforts to not interfere with the flow of Landfill Gas to the Point of Delivery and, subject to Buyer's obligations herein, shall not unreasonably interfere with the operation of the RNG Facility.

(b) All rights, privileges, and obligations that Buyer has under this Agreement shall be exercised and performed in such a manner as not to unreasonably interfere with the current and future construction, operation, maintenance, management, expansion, and closure of the Landfill, including the current and future disposal of waste at the Landfill under the Seller Permits.

4.10 Landfill Rules and Regulations. During the Term, Buyer shall comply with Seller's applicable rules, regulations and policies relating to the Landfill, including as to access, health, safety, and security.

#### 4.11 RNG Facility Outages.

(a) Buyer shall give Seller written notice of its proposed scheduled outages for the following year not later than November 30<sup>th</sup> of each year. Seller shall within fifteen (15) days thereafter review the scheduled outage schedule and Buyer shall make any adjustments to the schedule reasonably necessary to ensure that the Landfill Gas can be flared during the scheduled outage of the RNG Facility. Buyer shall use commercially reasonable efforts to promptly notify Seller of any changes to the scheduled outages, and Seller shall use reasonable efforts to accommodate such changes.

(b) Buyer shall provide Seller with as much notice as practicable of an unscheduled outage of the RNG Facility and shall notify Seller immediately in the event of any emergency that requires an immediate outage. As soon as reasonably practical thereafter, Buyer



shall provide Seller an assessment of the reasons for such unplanned outage and the expected schedule for the resumption of operations.

4.12 [Reserved].

4.13 Condensate. Buyer shall manage and deliver to Seller at the Condensate Acceptance Point the condensate generated in connection with the operation of the RNG Facility. Without limitation, Buyer shall take appropriate action to ensure that there is no release or threatened release (including any Release) of condensate from the RNG Facility, or any pipeline or other source or mechanism carrying condensate from the RNG Facility, and that all pipelines and other equipment used by Buyer for the storage, transportation, or disposal of condensate as provided herein is operated and maintained in good working order and in compliance with all Applicable Laws.

## SECTION 5 OPERATIONS AND EXPANSIONS OF THE FACILITIES; ADMINISTRATION

5.1 Expansion of Collection System at Buyer's Request. Buyer may propose an expansion of the Collection System to enable the delivery of additional available Landfill Gas to the Point of Delivery. Seller shall consider all such proposals from Buyer; provided, however, that only Seller shall have the right, but shall have no obligation, to expand the Collection System.

5.2 Commercial and Environmental Improvements. Within one hundred eighty (180) days after the Effective Date, Buyer shall provide Seller with a recommended scope of Commercial and Environmental Improvements. The Parties shall meet promptly thereafter and confer concerning Buyer's recommendation and shall work in good faith to reach a consensus plan. When agreement is reached on the scope and terms of Commercial and Environmental Improvements, Buyer shall confirm the Party's agreement by issuing a notice to Seller including the terms of the agreement of the Parties as to the Commercial and Environmental Improvements, which notice shall be subject to Seller's written acknowledgment. As of Seller's confirmation of the notice provided by Buyer, Buyer shall be obligated to pay for the Commercial and Environmental Improvements undertaken by Seller in an amount not to exceed a total sum of one million dollars (\$1,000,000) in aggregate over the Term, in accordance with the terms of the confirmed notice. Seller shall have no obligation to incur costs for such improvements in excess of amounts paid by Buyer. Buyer shall pay to Seller or directly to the applicable third party (as directed by Seller) the documented costs incurred for the Commercial and Environmental Improvements within thirty (30) days of Seller's delivery to Buyer of an invoice therefor. Seller's invoice shall include documentation supporting the invoice that is reasonably requested by Buyer. Title to, and ownership of, the Commercial and Environmental Improvements shall at all times be vested in Seller, and Buyer shall have no right, title or interest therein. Buyer shall execute any documentation requested by Seller to further evidence Seller's ownership of such Commercial and Environmental Improvements.

5.3 Non-Dedication of Facilities. Unless otherwise required by Applicable Laws, neither Party shall dedicate any part of any facility owned or operated by it at or relating to the Landfill for the production of Renewable Natural Gas to the public generally and indiscriminately, for the exercise of a public franchise, or in the exercise of a public utility function.

5.4 Exploration of CNG Station. Following the Commercial Operations Date, the Parties shall use commercially reasonable efforts to investigate the feasibility, and if feasible, the siting, design, engineering, construction and operation of a CNG Station on or near the Landfill Site to be operated by Buyer or an affiliate of Buyer.

5.5 Inspection of Books and Records: Accounting. Seller shall have the right to inspect, audit, and verify (collectively "Audit") the books, data, and other records of Buyer solely as it relates to compliance with this Agreement and the Site Lease, including Project Revenues, Royalty Payments, the Buyer Commodity Proceeds, and the Buyer Credit/Benefits Proceeds at Seller's offices (collectively, "Buyers' Books and Records"). Seller acknowledges that Buyer's Books and Records contain information that is confidential, proprietary and commercially sensitive. Buyer shall have no obligation to electronically deliver to Seller or provide copies of any of its Books and Records to Seller. Seller may identify an independent audit firm or other consultant to conduct any Audit of Buyer's Books and Records, provided that such audit firm or other consultant has agreed to maintain the confidentiality of Buyer's Books and Records. Buyer shall maintain all of its Books and Records in accordance with generally accepted accounting principles and prudent commercial practices in sufficient detail for Seller or its designee to conduct Audits as to the matters specified in this Section 5.5. Without limitation, Seller may rely on the results of such Audit in the exercise of its rights and remedies hereunder; provided, however, that Buyer may dispute the results of the Audit in dispute resolution.

5.6 Hazardous Materials. Buyer shall not, and shall not permit any of its agents, contractors, or employees, to transport to, store, use, release, discharge, or deposit on the Site or any portion of the Landfill any Hazardous Materials, other than to the extent necessary to construct, operate or maintain of the RNG Facility, in accordance with Applicable Laws and subject to prior notice to Seller and the availability at the Site of the Material Data Safety Sheets for all such materials.

5.7 Taxes. All taxes now or hereafter levied, assessed or imposed on the purchase and processing of Landfill Gas and the delivery and sale of Renewable Natural Gas, Buyer Benefit/Credits, and any other product or service attributable to the RNG Facility, all taxes imposed in any other manner thereon relating to any period or activity upon or following the transfer of title of the Landfill Gas to Buyer, shall be paid by Buyer. In addition, Buyer shall be solely responsible for all taxes, assessments, levies or other fees, costs, or expenses attributable to Buyer's Facility, whether personal property tax, real property tax or ad valorem tax.

5.8 Expenditure Fund.

(a) Starting on the Commercial Operation Date, the Parties shall each establish an account that holds one hundred twenty-five thousand dollars (\$125,000) designated as the "Expenditure Fund" for the purpose of funding immediate repairs to the Collection System identified by Buyer and emergency repairs from time to time as agreed by Seller.

(b) If Buyer identifies repairs or improvements to the Collection System that require immediate attention, Buyer shall notify Seller in writing of the repairs and improvements, with supporting documentation. Buyer and Seller shall meet within ten (10) days following delivery of such notice to agree on any repairs to be made to the Collection System and related

costs. Once such expenditures are agreed, Buyer and Seller shall then jointly engage by contract a third party contractor approved by Seller, on terms satisfactory to Seller, to begin the corrective work, and the costs of such work shall be billed to and timely paid in equal portions by each of Buyer and Seller.

(c) Expenditures from the Expenditure Fund shall be described in the Monthly Statement and shall contain a description of the repair or maintenance work performed, or capital improvements made, and the cost of such work.

(d) In no event shall either Party be responsible for funding such repairs or improvements directly in an amount that is in excess of fifty percent (50%) of the then current amount required to be in its Expenditure Fund. The aggregate amounts credited to the Expenditure Fund of both Parties shall not be required to exceed two hundred fifty thousand dollars (\$250,000) during the Term.

## **SECTION 6 BUDGET: REPORTS; CONSIDERATION TO SELLER**

6.1 Annual Budget. Starting with the date that is thirty (30) days after the end of the first (1<sup>st</sup>) Operating Year, and every anniversary of that date thereafter, Buyer shall provide to Seller a budget setting forth the quantities of Renewable Natural Gas and associated Buyer Credits/Benefits estimated by Buyer to be produced in the then current Operating year, prices for Renewable Natural Gas and associated Buyer Credits/Benefits projected by Buyer, and forecast royalties (the "Annual Budget"). The Annual Budget shall include a forecast of maintenance outages for Buyer's Facility for the then current Operating Year.

6.2 Annual Meeting. Buyer and Seller shall meet, at the Parties' election, in person or telephonically, no later than ninety (90) days following issuance of the Annual Budget to review the contents of the Annual Budget and other issues mutually agreed upon that relate directly to the RNG Facility, the Landfill, Renewable Natural Gas and Buyer Credits/Benefits.

6.3 Monthly Statement. Commencing on the first full Month after the Commercial Operations Date, Buyer shall deliver to Seller the Monthly Statement not later than the thirtieth (30<sup>th</sup>) day of such Month. Each Monthly Statement shall include at a minimum the following information as to the prior Month (together with supporting documentation):

- (a) The Royalty Payment, including the calculation thereof;
- (b) Meter data showing the Landfill Gas delivered to the Point of Delivery, the Renewable Natural Gas produced by the RNG Facility and the Renewable Natural Gas delivered to the Gas Distribution System;
- (c) The quantity of Condensate delivered to the Condensate Acceptance Point;
- (d) A description of all Hazardous Materials brought to or used at the Site and all related material data sheets;

- (e) Any material correspondence from any Governmental Authority relating to the RNG Facility or the Site other than in the ordinary course;
- (f) Any written threats of claims or complaints of third parties in respect of the RNG Facility or the Site; and

(g) A reconciliation of each of the following: (i) total Renewable Natural Gas and associated Buyer Credits/Benefits produced by Buyer; (ii) total Renewable Natural Gas and associated Buyer Credits/Benefits that have been delivered to the Interconnection Points; (iii) total payments made or received (whether in cash or otherwise, including by set off, and without limitation of Section 2.5) in respect of the sale of Renewable Natural Gas and Buyer Credits/Benefits for the applicable Month and for the Operating Year through such Month, and (iv) amounts payable for Renewable Natural Gas and Buyer Credits/Benefits that are accrued and unpaid

(h) Market data, including index pricing for the relevant period, supporting the fair market value of the prices paid to and fees incurred by Buyer under the RINs Monetization Agreement.

6.4 Royalty Payment. Commencing with the Month (whether a full or partial Month) during which the Pre-Commercial Operations Period occurs, Buyer shall pay Seller the Royalty Payment for Buyer Commodity Proceeds and Buyer Credits/Benefits Proceeds received by Buyer in each applicable Month during the Term. The Royalty Payment for each such Month shall be paid on or before the thirtieth (30<sup>th</sup>) day of the following Month by wire transfer of immediately available funds to an account specified by Seller by notice to Buyer. Buyer shall give Seller not less than ten (10) days' notice of the commencement of the Pre-Commercial Operations Period, and the Pre-Commercial Operations Period shall not exceed ninety (90) days, or such longer period to the extent of reasonable additional delays resulting from Seller's delivery of Landfill Gas that does not meet the quality required to operate the RNG Facility.

6.5 Amounts Payable; Interest; Final Payment. Without limitation of Seller's other rights hereunder, and unless otherwise provided, all amounts then payable by Buyer to Seller shall be paid by the 30<sup>th</sup> day of each Month for the prior Month. Any amounts payable under this Agreement that are not timely paid as set forth in this Agreement shall bear interest calculated from the date when due until such amounts are paid at a rate of one percent (1%) per annum plus the fluctuating prime rate of interest announced publicly by The Wall Street Journal from time to time as its reference rate. In no event shall the rate of interest charged exceed the maximum rate allowed by Applicable Law. In the event of any termination or expiration of this Agreement, any amounts owing and to be paid to Seller pursuant to this Agreement shall be paid (prorated where appropriate) within thirty (30) days of such termination or expiration.

6.6 Disputes; Correction of Errors. If at any time within twelve (12) months after the date of any payment hereunder either Party believes that that there has been an overpayment or underpayment, the Party asserting the error shall promptly notify the other Party in writing. In such event, the Parties shall attempt to agree on the amount of the overpayment or underpayment. In the event of an agreed-upon underpayment, Buyer shall pay any additional amount due to Seller within thirty (30) days of the notice of error. In the event of an overpayment, Buyer may reduce

future amounts payable to Seller until such overpayment has been entirely offset. If the Parties are unable to agree on the existence or amount of any overpayment or underpayment, then either Party may bring an action to resolve such dispute.

## SECTION 7 TERM AND RELATED AGREEMENT

7.1 Term. This Agreement is effective as of the date hereof; provided that, notwithstanding anything herein, (a) without the written consent of Seller, Buyer nor any subcontractor or agent of Buyer may not enter upon or occupy or undertake any activities at the Landfill, including the Site, prior to the Effective Date, (b) for the avoidance of doubt, no physical activities at the Landfill (including the Site) in connection with the RNG Facility or this Agreement may commence until the Effective Date, and (c) until the Effective Date, Seller shall have no obligation to reserve, deliver or sell Landfill Gas to Buyer. Unless earlier terminated as provided herein, this Agreement shall continue for a period of twenty (20) years from the Commercial Operation Date (the "Initial Term"). If the Site Lease is extended for not less than a corresponding period in accordance with its terms or otherwise by agreement between the Lessee and Seller, Buyer, by notice to Seller delivered not less than two years prior to the expiration of the Initial Term, may propose to extend the term by an additional five years, in which case, Buyer and Seller shall meet to discuss the terms of such extended term. If Buyer fails to deliver timely notice of a proposed extension or if the Parties do not agree to extend the Term within one hundred twenty (120) days of delivery to Seller of Buyer's notice, then this Agreement shall expire at the end of the Initial Term. Notwithstanding the foregoing or anything herein, but without limitation of Section 10, this Agreement shall terminate as of the earlier of (x) simultaneously with the termination or expiration of the Site Lease for any reason, and (y) at such time as Buyer (or a permitted assignee of Buyer) is not the RNG Facility Operator.

### 7.2 Termination.

(a) Seller may terminate this Agreement by notice to Buyer if (i) within forty- five (45) days of the date hereof, (A) the Parent Guaranty has not been executed and delivered and is in full force and effect and (B) the Letter of Financial Support has not been delivered or (ii) within ninety (90) days of the date hereof, the Site Lease has not been executed and delivered and is in full force and effect, and Seller may exercise such right from and after each such date until the occurrence of the Effective Date.

(b) Seller may terminate this Agreement if the Commercial Operation Date has not occurred within two years following the Guaranteed Commercial Operation Date; provided that, without limitation of Section 4.4, Seller shall not terminate this Agreement if, as of such date, physical construction of the RNG Facility is under way and for so long thereafter as such construction is being diligently continued and Commercial Operation is reasonably likely to occur and does occur within one year thereafter.

7.3 Survival. Without limitation of Section 15.4(d), the rights and obligations of the Parties accrued prior to or as of the termination or expiration of Agreement shall survive, as necessary, to implement any obligations that survive the termination or expiration of this Agreement.

## SECTION 8 METERING

8.1 Metering at the Interconnection Points. Buyer shall, at its own cost, install, maintain and operate metering equipment to measure the Renewable Natural Gas produced at the RNG Facility and the Renewable Natural Gas delivered to the Interconnection Points. Such metering equipment shall be of a type commonly used in the natural gas industry, as to accomplish the accurate measurement of the Renewable Natural Gas. Buyer shall also install, maintain, and operate at its cost a flow meter to measure the amount of condensate delivered to Seller. Such meters shall be equipped so as to accomplish the accurate measurement of the condensate. Seller shall have the right to read all such meters at any time. Such meters shall be capable of remote monitoring, and Seller shall have real time internet access to the meter data at all times. Buyer shall be responsible for the maintenance, testing, and the allocation of testing costs associated with all such metering equipment.

8.2 Metering at the Point of Delivery. Seller shall, at its own cost, install, maintain, and operate a measuring station at the Point of Delivery. Said measuring station shall be so equipped with an orifice meter, a recording gauge, or other types of meter or meters of standard make and design commonly acceptable in the industry, as to accomplish the accurate measurement of Landfill Gas delivered by Seller to Buyer. The changing and integration of the charts and calibrating and adjusting of meters shall be done by Seller at its own cost. Seller hereby grants Buyer the right to read all such meters and gauges at any time during the Term for the purposes of this Agreement.

(a) Tests. Each Party shall maintain its meters in good working order and repair, and shall test its meters not less than annually. Either Party may request a test of any meter installed by the other Party, including any check meter installed by either Party. The Parties shall cooperate to obtain verification of the accuracy of the meters. Each Party shall be notified by the other Party not less than three (3) Business Days in advance of, and shall have the right to be present at, all tests of all meters and the check meters. All tests of meters and check meters requested by a Party shall be made at the requesting Party's expense, except that the meter owner shall bear the expense of tests completed if any inaccuracy found is two percent (2%) or more.

(b) Corrections. If, on the basis of an industry-standard test, the metering equipment is found to be inaccurate by two percent (2%) or more, registration thereof and any payment based upon such registration shall be corrected at the rate of such inaccuracy for any period of inaccuracy which is definitely known or agreed upon, or if not known or agreed upon, then for a period extending back one-half (1/2) of the time elapsed since the last day of the calibration, not exceeding, however, forty-five (45) days. Following any test, any metering equipment found to be inaccurate to any degree shall be adjusted immediately to measure accurately. If for any reason any meter is out of service or out of repair so that the quantity of Landfill Gas or Renewable Natural Gas delivered through such meter cannot be ascertained or computed from the readings thereof, the quantity of Landfill Gas or Renewable Natural Gas so delivered during such period shall be estimated and agreed upon by the parties hereto upon the basis of the best available data using the first of the following methods which is feasible: (i) by using the registration of any check measuring equipment; (ii) by correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculation; or (iii) by

estimating the quantity of deliveries during preceding periods under similar conditions when the meter was registering accurately.

8.3 Check Meter. Each Party may, at its option and expense, install check meters for checking the other Party's metering equipment; and the same shall be so installed as not to interfere with the operation of the respective primary metering equipment.

## **SECTION 9 TAXES**

9.1 Definition. For purposes of Sections 9.2 and 9.3 below, the term "taxes" shall include, but not be limited to, income, sales, use, franchise, property, production, wellhead, and valorem taxes.

9.2 Taxes. Buyer and Seller shall assume and operate as if no taxes will be assessed with respect to the sale by Seller and purchase by Buyer of the Landfill Gas hereunder and shall take that position before any Governmental Authority with jurisdiction over such taxes; provided, however, that any sales or use tax arising out of such purchase and sale shall be paid on a 50/50 basis between Buyer and Seller. Seller shall notify Buyer of the applicable taxes payable, including documentation thereof, and Buyer shall pay Seller such amount within fifteen (15) days of such notice. Seller shall remit the payment to the applicable Governmental Authority.

9.3 Tax Deductions, Credits, etc. Except as expressly provided herein, each Party shall be entitled to all income tax deductions, credits, depletion, and similar allowances and other benefits relating to equipment or property owned by it and to sales of gas, energy, and other products derived from Landfill Gas to which it is entitled to take under applicable tax laws, rules, and regulations.

9.4 Availability and Preservation of Records. To the extent Buyer is entitled to any tax credits in respect of the Renewable Natural Gas, Seller shall make available to Buyer and retain for at least seven (7) years, a copy of all of its records and measurement data that are necessary to establish Buyer's eligibility for such tax credits, including records of the quantity of the Landfill Gas delivered to the Point of Delivery.

9.5 Responsibility for Tax Consequences. Except as expressly provided herein, Seller and Buyer are each solely responsible for their own respective tax consequences in connection with its obligations under this Agreement and its revenues or benefits derived from the transactions contemplated hereby.

## **SECTION 10 TERMINATION AND DEFAULT**

10.1 Buyer Events of Default. Each of the following constitutes an "Event of Default" of Buyer:

(a) Buyer's failure to pay Seller any amounts that are due and owing under this Agreement within fifteen (15) days following the due date therefor, including, for the avoidance of doubt, amounts payable as provided in Section 4.4, other than to the extent of any unpaid amount

that Buyer has disputed in writing together with documentation reasonably supporting such dispute and is actively pursuing the resolution of such dispute in accordance with this Agreement;

(b) [Reserved];

(c) Buyer fails to timely deliver any report required to be delivered to Seller hereunder and such failure is not fully cured within ten (10) Business Days;

(d) Following the Commercial Operation Date, Buyer fails to operate the RNG Facility to convert Landfill Gas to Renewable Natural Gas or to sell Renewable Natural Gas for an aggregate of thirty (30) days in any twelve (12) month period, other than: (i) to the extent such failure is excused by an event or events of Force Majeure, a Seller Event of Default, or Seller's failure to provide Landfill Gas consistent with the Landfill Gas Benchmark, or (ii) in connection with a scheduled outage or forced outage of the RNG Facility; provided that Buyer is diligently pursuing the repairs required to restore the operations of the RNG Facility.

(e) Buyer materially breaches any covenant or agreement that is contained in this Agreement and then in effect and not otherwise governed by any other provision of this Section 10.1, and such breach is not cured within thirty (30) days following written notice thereof from Seller to Buyer; provided, that if such breach cannot reasonably be cured within such period of time, then provided that Buyer commences cure within such period of time and diligently pursues such cure and such breach could not reasonably be likely to have a material adverse effect on Seller or the Landfill during such period, then the period for cure shall be extended for such period of time as may be reasonably necessary to cure same, not to exceed an additional sixty (60) days;

(f) Any representation or warranty of Buyer in this Agreement was inaccurate in any material respect when made and such inaccuracy could reasonably be expected to have a material adverse effect on Seller or the Landfill, and Buyer does not cure such inaccuracy and the effect thereof within thirty (30) days following receipt of written notice from Seller; or

(g) Buyer is (i) adjudicated to be bankrupt or insolvent, (ii) shall have filed a petition in bankruptcy, reorganization, or similar proceedings under the bankruptcy laws of the United States or any state, (iii) shall have had filed against it a petition in bankruptcy, reorganization, or similar proceedings under the bankruptcy laws of the United States or any state, which petition is not dismissed within sixty (60) days of such filing, (iv) shall have a receiver, permanent or temporary, appointed by a court of competent jurisdiction for it or on its behalf; shall request the appointment of a receiver; shall make a general assignment for the benefit of creditors;

(v) shall have its bank accounts, property or receivables attached and such attachment proceedings are not dismissed within a sixty (60) day period, or (v) shall dissolve or liquidate.

(h) At any time following the Effective Date until the obligations of the Guarantor thereunder have been satisfied, the Parent Guaranty ceases to be in full force and effect or the effectiveness or enforceability thereof is repudiated by the Guarantor.

10.2 Seller Events of Default. Each of the following constitutes an "Event of Default" of Seller:



(a) Seller's failure to pay Buyer any sums that are due and owing under this Agreement within fifteen (15) days following the due date therefor, other than to the extent of any unpaid amount that Seller has disputed in writing together with documentation reasonably supporting such dispute and is actively pursuing the resolution of such dispute in accordance with this Agreement;

(b) Seller materially breaches any covenant or agreement that is contained in this Agreement and then in effect and not otherwise governed by any other provision of this Section 10.2, and such breach is not cured within thirty (30) days following written notice thereof from Buyer to Seller; provided, that if such breach cannot reasonably be cured within such period of time, then provided that Seller commences cure within such period of time and diligently pursues such cure and such breach is not reasonably likely to have a material adverse effect on Buyer or the RNG Facility during such period, then the period for cure shall be extended for such period of time as may be reasonably necessary to cure same, not to exceed an additional sixty (60) days;

(c) Seller (i) is adjudicated to be bankrupt or insolvent, (ii) shall have filed a petition in bankruptcy, reorganization, or similar proceedings under the bankruptcy laws of the United States or any state, (iii) shall have had filed against it a petition in bankruptcy, reorganization, or similar proceedings under the bankruptcy laws of the United States or any state, which petition is not dismissed within sixty (60) days of such filing, (iv) shall have a receiver, permanent or temporary, appointed by a court of competent jurisdiction for it or on its behalf; shall request the appointment of a receiver; shall make a general assignment for the benefit of creditors;

(v) shall have its bank accounts, property or receivables attached and such attachment proceedings are not dismissed within a sixty (60) day period, or (v) shall dissolve or liquidate, and in any case of the foregoing, Seller is unable to continue to operate the Landfill and deliver Landfill Gas to the Point of Delivery;

(d) Seller breaches any covenant or agreement then in effect under this Agreement and such breach has a material adverse effect, or is reasonably expected to have a material adverse effect, on deliveries of Landfill Gas to Buyer, or if Seller fails to operate, maintain, and repair the Collection System and such breach is reasonably likely to materially adversely affect deliveries of Landfill Gas hereunder, and such breach is not cured within thirty (30) days following written notice thereof from Buyer to Seller; or

(e) After the Effective Date, the occurrence and continuation of an "Event of Default" (as defined under the Site Lease) by Seller under the Site Lease that results in the termination of the Site Lease.

### 10.3 Remedies.

(a) If an Event of Default by Buyer has occurred and is continuing (a) pursuant to Section 10.1(a), or (b) pursuant to Section 10.1(d) or Section 10.1(e) and such default could reasonably result in a material adverse effect on Seller or the Landfill, then in either such case, Seller may suspend deliveries of Landfill Gas to Buyer, if then applicable.

(b) The non-defaulting Party may terminate this Agreement by giving written notice of termination to the defaulting Party if an Event of Default has occurred and is continuing

pursuant to Section 10.1(a), or Section 10.1(d) or if any other Event of Default that has occurred and is continuing has had or is reasonably likely to have a material adverse effect on Seller or the Landfill (in the case where the non-defaulting Party is Seller) or has had or is reasonably likely to have a material adverse effect on Buyer or the RNG Facility (in the case where the non-defaulting Party is Buyer).

(c) Without limitation of Section 10.3(a) or Section 10.3(b), if an Event of Default has occurred and the Event of Default has not had and is not reasonably likely to have a material adverse effect on Seller or the Landfill (in the case where the non-defaulting Party is Seller) or has not had and is not reasonably likely to have a material adverse effect on Buyer or the RNG Facility (in the case where the non-defaulting Party is Buyer), the non-defaulting Party's sole and exclusive remedies shall be the greater of (i) its actual damages and direct damages and (ii) One Hundred and Fifty No/Dollars (\$150.00) for each day that the Event of Default continues; provided that for an Event of Default under Section 10.1(c), the exclusive remedy shall be the payment by Buyer to Seller of One Hundred Fifty and No/Dollars (\$150.00) for each day such Event of Default is continuing up to one hundred twenty (120) days, and thereafter, such Event of Default shall be deemed to have a material adverse effect on Seller.

10.4 Other Remedies. Subject to the limitations herein and except with respect to matters as to which a remedy is specified herein and stated to be exclusive, the Parties shall have the right to seek remedies available at law or in equity in connection with any breach or default of this Agreement by the other Party, including an Event of Default, which remedies shall be cumulative but not duplicative. For the avoidance of doubt, the sole and exclusive remedies available to: (a) Seller for Buyer's failure to achieve a Major Milestone Date other than the Commercial Operation Date are set forth in Section 4.4(e); and (b) a non-defaulting Party for an Event of Default that does not impose any material adverse effect on the non-defaulting Party are set forth in Section 10.3(c).

10.5 Actions Upon Expiration or Termination. Following termination of this Agreement and restoration of the Site in accordance with this Agreement and the Site Lease, neither Party shall have any further obligation under this Agreement except as to liabilities or obligations accruing to a Party prior to or in connection with the termination or expiration of this Agreement and those obligations that expressly or by their nature survive the termination or expiration of this Agreement including as provided in Section 12. Following expiration or termination of this Agreement, upon request of Seller, Buyer shall execute and deliver to Seller any documentation necessary to evidence the termination and revocation of any rights of Buyer hereunder as of such expiration or termination and any other rights provided in connection with this Agreement or the transactions contemplated hereby.

## **SECTION 11 ASSIGNMENT**

11.1 Consent Required for Assignment and Change of Control. Except as provided in in Sections 11.2 and 11.3, Seller's consent, which shall not be unreasonably withheld, delayed or conditioned (other than in the case of a Change of Control, as to which consent shall be given or withheld in Seller's sole discretion), shall be required for any Change of Control of Buyer or any assignment by Buyer of this Agreement or any assignment or delegation of Buyer's rights and

obligations under this Agreement. Without limitation, it shall be a reasonable exercise of Seller's discretion to disapprove an assignment if Seller reasonably determines that a proposed assignee

(a) lacks the financial ability to perform Buyer's obligations hereunder; (b) lacks the technical qualifications and experience required to perform Buyer's obligations hereunder; (c) is engaged in the waste disposal business or owns, is owned or controlled by or under common ownership or control with an entity that is engaged in the waste disposal business, or is otherwise a Competitor;

(d) has (or any of its affiliates has) engaged in any violation of Environmental Laws; or (e) could adversely affect Seller's relationships with the members of the community in which the Landfill is located.

11.2 Exceptions to Consent Requirement for Assignment. Buyer may, with prior notice to, but without the need for consent of Seller:

(a) assign, transfer, pledge or otherwise dispose of its rights and interest under this Agreement to an Affiliate that will have taken assignment of the RNG Sale Agreement and has entered into a contract with PGS to operate the RNG Facility for the remainder of the Term; and

(b) assign, transfer or convey its rights and interest under this Agreement to PGS if the Site Lease is then in effect and PGS is the lessee thereunder.

11.3 Collateral Assignment. In addition to Buyer's right to assign with notice, but without the need for consent, pursuant to Section 11.2, Seller may collaterally assign or pledge its rights and interest under this Agreement for purposes of financing as collateral to one or more Financing Parties with prior notice to, but without the need for consent of Seller. In the event of such an assignment being made or given, Seller shall, upon reasonable request made by Buyer, enter into an agreement or agreements with the Financing Party confirming the rights of the Financing Party provided in this Agreement. In no event shall a Financing Party, in exercising its rights and remedies provided against Buyer in any financing agreements, assign this Agreement to a third party either directly or indirectly through foreclosure or otherwise through operation of law, to a third party that is not a Qualified Assignee. For the purposes of this Section 11.3, a "Qualified Assignee" is a Person that (a) has been engaged by PGS as the RNG Facility Operator for the remaining term of this Agreement, (b) has the financial ability to perform Buyer's obligations hereunder, (c) has the technical qualifications and experience required to perform Buyer's obligations hereunder; (d) is not a Competitor, (e) is not in, and has not been, within the previous five (5) years, in default of any obligation to Seller, (f) has not been an adverse party in litigation involving Seller, (g) has not been (nor has any Affiliate been) in material violation of any Environmental Law, and (h) for whom the nominal value of this Agreement comprises less than ten percent (10%) or more of that Person's gross revenues. No such assignment by a Financing Party may be effected unless and until all then-existing defaults by Buyer hereunder that are susceptible to be cured have been cured.

11.4 Assignment by Seller. Seller may assign this Agreement in its sole discretion to any Person that assumes ownership or control of the Landfill.

11.5 Obligations of Assignee. The assigning Party shall require any permitted assignee of this Agreement, for the benefit of and addressed to the non-assigning Party, to agree in writing

to be bound by all the terms and conditions of this Agreement and no assignment shall relieve the assigning Party of obligations under this Agreement that arose or relate to acts or omissions occurring prior to such assignment.

## SECTION 12 INDEMNIFICATION

### 12.1 General Indemnification.

(a) By Buyer. Buyer shall indemnify and defend Seller, and its affiliates, and their respective directors, officers, partners, shareholders, employees, agents, representatives, co venturers, successors, permitted assigns, contractors, or servants (collectively, the "Seller Indemnified Parties"), and hold harmless for, from, and against, any and all Losses arising from claims by third parties arising out of or in connection with: (i) any personal injury (including to any employee, agent, contractor, or subcontractor of Buyer) or property damage (including to the Site) caused by the negligence or willful misconduct of Buyer in (A) exercising its rights or (B) performing its obligations (or failing to perform its obligations) under this Agreement, (ii) Buyer's use, occupancy, conduct, operation, construction, alteration, maintenance, repair, replacement, or management of the RNG Facility or the Site, and (iii) claims arising from any odors or other emissions emanating after the Point of Delivery. Buyer's indemnification obligation does not extend to Losses to the extent caused by any gross negligence or willful misconduct on the part of the Seller or its employees, officials, agents, or contractors.

(b) By Seller. Seller shall indemnify and defend Buyer, and its affiliates, and their respective directors, officers, partners, shareholders, employees, agents, representatives, co venturers, successors, permitted assigns, contractors, or servants (collectively, the "Buyer Indemnified Parties"), and hold harmless for, from, and against, any and all Losses arising from claims by third parties arising out of or in connection with: (i) any personal injury (including to any employee, agent, contractor, or subcontractor of Seller) or property damage to the RNG Facility (including to the Site) caused by the negligence or willful misconduct of Seller in (A) exercising its rights or (B) performing (or failing to perform) its obligations under this Agreement, (ii) Seller's use, occupancy, conduct, operation, construction, alteration, maintenance, repair, replacement, or management of the Landfill, and (iii) claims arising from any odors or other emissions emanating on or before the Point of Delivery. Seller's indemnification obligation does not extend to Losses to the extent caused by any gross negligence or willful misconduct on the part of the Buyer or its employees, officials, agents, or contractors.

### 12.2 Environmental Indemnities.

(a) By Buyer. Without limitation of Section 12.1(a), Buyer shall defend, indemnify and hold harmless Seller and its affiliates and each of their respective officers, directors, employees, agents, contractors, and subcontractors from and against any and all Environmental Losses, arising out of or relating to (i) construction, operation or maintenance of the RNG Facility, (ii) the Release or threatened Release of Hazardous Materials at, in, on, under, or from the Site occurring in connection with the RNG Facility, or (iii) the failure of Buyer (or its contractors or agents) or the RNG Facility to comply with any Environmental Laws. Buyer's indemnification

obligation does not extend to any Environmental Losses to the extent caused by the negligence or willful misconduct on the part of the Seller or its employees, officials, agents, or contractors.

(b) By Seller. Seller acknowledges that solely by virtue of its entry upon the Landfill and the taking of actions authorized by or consistent with this Agreement, neither Buyer its, agents, contractors, employees, directors, or officers shall have, or shall be deemed to have, in any way assumed any liability or obligation associated with materials of any type or description (including Hazardous Materials) deposited, stored, or received for disposal on or within the Landfill by Persons other than Buyer or its contractors, subcontractors, invitees, or agents, or otherwise in connection with Buyer's use of the Site and Easements. Without limitation of Section 12.1(b), Seller shall defend, indemnify and hold harmless Seller and its affiliates and each of their respective officers, directors, employees, agents, contractors, and subcontractors from and against any and all Environmental Losses arising out of or relating to (i) construction, operation or maintenance of the Landfill and the Collection System; (ii) the Release or threatened Release of Hazardous Materials at, in, on, under, or from the Landfill or the Collection System (other than the RNG Facility or the Site); and (iii) the failure of the Landfill or the Seller to comply with any Environmental Laws. Seller's indemnification obligation does not extend to any Environmental Losses to the extent caused by (x) the negligence or willful misconduct on the part of the Buyer or its employees, officials, agents, or contractors, or (ii) any actions affecting the Landfill or Collection System taken by Buyer pursuant to Section 5.8.

12.3 Personal Liability. Notwithstanding any other provision of this Agreement, no stockholder, member, partner, manager, officer, director, employee, consultant, agent, representative, or affiliate of any Party shall have personal liability to any indemnified party for any breach of a representation, warranty covenant or agreement contained in this Agreement or any personal obligation to indemnify any other indemnified party for any claims pursuant to Sections 12.1 and 12.2.

12.4 Survival of Indemnities. The indemnity obligations of the Parties under Section 12.1, Section 12.2, and Section 12.3 shall survive the expiration or earlier termination of this Agreement.

12.5 Buyer Insurance. At all times during the Term, Buyer shall keep in effect the following insurance coverages:

(a) A commercial general liability insurance policy at least as broad as ISO commercial general liability insurance (for CQ 0001) as necessary to protect Seller from all claims and legal costs for bodily injury or personal injury and property damage arising from the Buyer Operations, in an amount of not less than Two Million and No/100 Dollars (\$2,000,000) per occurrence. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to the Buyer Operations and Buyer's Site, or the general aggregate limit shall be twice the required occurrence limit set forth above. The policy shall be endorsed to include contractual liability, and shall be endorsed to provide that Seller, its officers, officials, employees, contractors, agents, and volunteers are to be covered as additional insureds with respect to liability arising in connection with the RNG Facility and this Agreement.

(b) An automobile liability insurance policy at least as broad as ISO automobile liability (for CA 0001) covering owned, non-owned, or hired vehicles, in an amount of not less than One Million and No/100 Dollars (\$1,000,000.00).

(c) A policy of workmen's compensation in a form and in an amount as required by Florida State law and employer's liability insurance with limits of not less than \$1,000,000 each accident.

(d) To the extent that Buyer (or any of its subcontractors) performs professional services, Buyer (or its subcontractor) shall be required to maintain professional liability insurance appropriate to that profession. Such policy shall be written on a "claims made" basis, with a limit of not less than \$1,000,000 per claim and in the aggregate. Architects' and Engineers' coverage shall be endorsed to include contractual liability. The date of the policy, or the retroactive coverage under the policy, shall be prior to the start of any work under or in connection with this Agreement. This insurance shall be maintained during the Term of this Agreement and for at least ten consecutive years following its termination. Buyer shall annually submit written evidence of coverage to Seller. Additionally, Buyer shall provide Seller with certified copies of the claims reporting requirements contained within the policies. This insurance shall be endorsed to be applicable solely to claims based upon, arising out of, or related to, the work to be performed under this Agreement.

(e) Environmental Liability Insurance in the amount of One Million and No/100 Dollars (\$1,000,000) per occurrence.

(f) The commercial general, environmental, and automobile liability policies shall name Seller, its officers, officials, employees, contractors, agents, and volunteers, as additional insureds. Original endorsements evidencing the required coverage for all policies shall be provided to Seller prior to commencement of any work by or on behalf of Buyer at the Site. Such policies shall include Buyer's subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor, naming Seller, its officers, officials, employees, contractors, agents, and volunteers as additional insureds. Such coverage for subcontractors shall be subject to all the requirements set forth in this [Section 12.5](#). The insurance policies provided pursuant to this [Section 12.5](#) shall remain in full force during the entire Term, and shall be endorsed to provide that the insurer shall give Seller written notice of cancellation or failure to renew such policies at least thirty (30) days in advance of such cancellation or failure to renew.

12.6 Seller's Insurance. At all times during the Term, Seller shall keep in effect the following:

(a) A commercial general liability insurance policy at least as broad as ISO commercial general liability insurance (for CQ 0001) as necessary to protect Seller from all claims and legal costs for bodily injury or personal injury and property damage arising from Seller's operations, of not less than Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate and One Million Two Hundred Thousand and No/100 Dollars (\$1,200,000.00) per occurrence. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to Seller's operations and Seller's Site, or the

general aggregate limit shall be twice the required occurrence limit set forth above. The policy shall be endorsed to provide that Buyer, its officers, officials, employees, contractors, agents, and volunteers are to be covered as insured with respect to liability arising from Seller's operations, including materials, parts, or equipment furnished in connection with Seller's operations; and

(b) An automobile liability insurance policy at least as broad as ISO automobile liability (for CA 0001) covering owned, non-owned or hired vehicles, in an amount of not less than One Million and No/100 Dollars (\$1,000,000.00); and

(c) A policy of workmen's compensation and employer's liability insurance in a form and in an amount as required by Florida State law.

### SECTION 13 REPRESENTATIONS, WARRANTIES, AND COVENANTS

13.1 Representations, Warranties, and Covenants of the Seller. Seller represents and warrants to Buyer as follows as of the date hereof and the Effective Date:

(a) Existence. The Seller is a Florida association of municipal subdivisions duly organized, and in good standing under the laws of the State of Florida and authorized to do business in the State of Florida. The Seller has the power and the lawful authority to enter into and perform its obligations under this Agreement.

(b) Authorization. The execution, delivery, and performance by the Seller of and under this Agreement have been duly authorized by all necessary action and do not and will not violate any provision of law or violate any provision of its charter or result in a material breach or default under any agreement, indenture, or instrument of which it is a Party or by which its properties may be bound or affected.

(c) Validity of Agreement. This Agreement when duly executed and delivered, will constitute a valid and legally binding obligation of Seller enforceable in accordance with its term, except as such enforceability may be limited by (i) bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors rights generally; or (ii) application of general principles of equity including availability of specific performances as a remedy.

(d) Litigation. There are no actions, suits, or proceedings pending or, to the best of the Seller's knowledge, threatened against the Seller or the Landfill before any court or governmental department, commission, board, bureau, agency, or instrumentality that, if determined adversely to the Seller, would have a material effect on the transactions contemplated by this Agreement.

(e) Prior Agreement. There are no other agreements made by the Seller that are still in effect that address substantially the same subject matter of this Agreement or the Site Lease.

(f) Title. Seller has good and marketable title to the Landfill Gas, free and clear of all liens, claims, and encumbrances, and will deliver good and marketable title to the Landfill Gas to Buyer, free and clear of all liens, claims and encumbrances at the Point of Delivery.

13.2 Representations, Warranties, and Covenants of the Buyer. Buyer represents and warrants to Seller as follows as of the date hereof and the Effective Date:

(a) Existence. The Buyer is a limited liability company, duly organized, and in good standing under the laws of the State of Delaware and is registered, qualified, licensed to do business in and is in good standing in the State of Florida. Buyer has the limited liability company power and the lawful authority to enter into and perform its obligations under this Agreement.

(b) Authorization. The execution, delivery, and performance by the Buyer of and under this Agreement have been duly authorized by all necessary action and do not and will not violate any provision of law or violate any provision of its charter or result in a material breach or default under any agreement, indenture, or instrument of which it is a Party or by which its properties may be bound or affected.

(c) Validity of Agreement. This Agreement when duly executed and delivered, will constitute a valid and legally binding obligation of Buyer enforceable in accordance with its term, except as such enforceability may be limited by (i) bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors rights generally; or (ii) application of general principles of equity including availability of specific performances as a remedy.

(d) Litigation. There are no actions, suits, or proceedings pending or, to the best of the Buyer's knowledge, threatened against the Buyer or of any of the Buyer's properties before any court or governmental department, commission, board, bureau, agency, or instrumentality that, if determined adversely to the Buyer, would have a material effect on the transactions contemplated by this Agreement.

## **SECTION 14**

### **FORCE MAJEURE**

#### 14.1 Force Majeure.

(a) If either Party is rendered unable, wholly or in part, by the occurrence of an event of Force Majeure to carry out its obligations under this Agreement, that Party shall give to the other Party prompt written notice of the event (but in no event more than three days thereafter), which notice shall include a description of the nature of the event, its cause and possible consequences, its direct impact on the Party's ability to perform all or any part of its obligations under this Agreement, the expected duration of the event. The affected Party shall be excused from its obligations to the extent and for so long as affected by such Force Majeure; provided that (i) the affected Party continues to furnish timely regular reports with respect thereto during the period of Force Majeure; (ii) the non-performing Party exercises all commercially reasonable efforts to continue to perform its obligations hereunder and to remedy or mitigate its inability to perform its obligations; (iii) the non-performing Party provides the other Party with notice promptly following the cessation of the event of Force Majeure giving rise to the excuse from performance; (iv) no obligation of either Party that arose prior to the occurrence of the event of Force Majeure shall be excused as a result of such occurrence; and (v) a Force Majeure event shall not excuse any payment obligation hereunder.



(b) For the avoidance of doubt, none of (i) economic hardship of a Party; (ii) Seller's ability to sell Landfill Gas at a price greater than that for which such is herein contracted; (iii) Buyer's ability to purchase Landfill Gas at a price less than that for which such is herein contracted; (iv) Buyer's inability to sell Renewable Natural Gas, including not having a purchaser, or a consistent purchaser, for Renewable Natural Gas; or (v) the inability of a Party to obtain financing or make payments, shall constitute an event of Force Majeure.

14.2 Termination for Force Majeure. If a Force Majeure event continues for an aggregate of more than three hundred sixty-five (365) days in any twenty-four (24) Month period, the Party that has not asserted the event of Force Majeure may terminate this Agreement upon giving written notice to the other Party, without liability without liability of either Party by reason of such termination.

## **SECTION 15 MISCELLANEOUS PROVISIONS**

15.1 Notices. All notices or other communication required or permitted hereunder shall be deemed when received and, unless otherwise provided herein, shall be in writing, shall be sent by nationally recognized overnight courier service or sent by registered or certified mail, return receipt requested, deposited in the United States mail, postage prepaid, addressed to the parties at the addresses set forth below, and shall be deemed received upon the sooner of (i) the date actually received; or (ii) the fifth business day following mailing by registered or certified mail.

TO BUYER:

New River RNG LLC c/o Fortistar  
One North Lexington Avenue, Suite 1450 White Plains,  
New York 10601 Attention: Notice Officer

TO SELLER:

New River Solid Waste Association 24276 NE 157th  
Street  
Raiford, FL 32083  
Tel: (386) 431-1000  
Fax: (386) 431-1099  
Email: [\*\*\*]  
Attn: [\*\*\*]

Notice of change of address shall be given in the manner detailed in this Section 15.1.

15.2 Successors and Assigns. All the terms and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the successors and permitted assigns of the Parties hereto.

15.3 Further Assurances. The Parties agree to perform all such acts (including without limitation executing and delivering instruments and documents) as reasonably may be necessary to fully effectuate the intent and each and all of the purposes of this Agreement, including consent to any assignments, transfers, subleases, or easements permitted hereunder.

15.4 Construction of Agreement.

(a) Governing Law. The Parties acknowledge that this Agreement is being executed in the Town of Raiford, Florida. This Agreement and any provisions contained herein shall be governed by and construed in accordance with the laws of the State of Florida, without reference to its conflict of law principles. Seller and Buyer each consent to the exclusive jurisdiction of, and to the laying of venue in the courts of the State of Florida in Union County, Florida, or, if such court refuses jurisdiction, the United States District Court for the Northern District of the State of Florida. The Parties each hereby irrevocably waives its right to request a trial by jury with respect to any matter or proceeding arising hereunder.

(b) Interpretation. The Parties agree that the terms and provisions of this Agreement embody their mutual intent and that such terms and conditions are not to be construed more likely in favor of, nor more strictly against, either Party. To the extent the mutual covenants of the Parties under this Agreement create obligations that extend beyond the termination of this Agreement, the applicable provisions of this Agreement shall be deemed to survive such termination for the limited purpose of enforcing such covenants and obligations in accordance with the terms of this Agreement.

(c) Partial Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstances, shall, to the extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(d) Survival. To the extent the covenants of the Parties create obligations that extend beyond the termination or expiration of this Agreement, the applicable provisions of this Agreement shall be deemed to survive such termination or expiration for the limited purpose of enforcing such covenants and obligations in accordance with the terms of this Agreement. Without limitation of the foregoing, to the extent then in effect as of the termination of this Agreement, the following Sections of this Agreement shall survive the expiration or earlier termination hereof: Sections 1, 4.4(d), 6.4, 6.5, 7.3, 9.4, 9.5, 10.3, 10.4, 10.5, 12, 15.

(e) All exhibits and schedules attached to this Agreement are incorporated herein by this reference

15.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

15.6 Entire Agreement. The provisions of this Agreement and the attached exhibits constitute the entire understanding and agreement between the Parties regarding the subject matter hereof, supersede entirely all prior understandings, agreements or representations regarding the subject matter hereof, whether written or oral, and may not be altered or amended except by an instrument in writing signed by the Parties. The Parties each acknowledge and agree that no representation, warranty, or inducement has been made to it regarding the rights set forth in this

Agreement which is not expressly set forth in this Agreement and the attached exhibits. The Preliminary Statement above shall be construed to be a binding part of this Agreement as if fully set forth herein.

15.7 No Partnership. Nothing contained in this Agreement shall be construed to create any association, trust, partnership, or joint venture or impose a trust or partnership, duty, obligation, or liability or agency relationship on, or with regard to either Party. Neither Party hereto shall have the right to bind or obligate the other in either way or manner unless otherwise provided for herein.

15.8 Waiver. No failure or delay of any Party to exercise any power or right under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercises of any right or power.

15.9 Confidential Information. Either Party may designate any data, information, reports, or documents provided to the other as Confidential Information. Except as required by Applicable Law, neither Party shall, without the prior written consent of the other Party, disclose any Confidential Information obtained from the other Party to any third parties, consultants, or to employees who have agreed to keep such information confidential as contemplated by this Agreement and who need the information to assist either Party with the rights and obligations contemplated herein. Upon the expiration of the Term or the earlier termination of this Agreement, each Party shall, promptly upon request, destroy or return or cause to be returned (i) all Confidential Information then held by such or any of its agents, representatives or employees; and (ii) all information and documents then held by Buyer or any of its agents, representatives or employees related to the quantity, quality, components, and elements of the Landfill Gas produced by the Landfill; provided that both Parties may retain one copy of any documents retained solely for the purpose of compliance with Applicable Law or document retention policies and, without limitations of its obligations under this Section 15.9, no Party shall have any obligation to destroy electronically archived information the retrieval of which requires the Party to engaged a third party or otherwise incur unreasonable expense.

15.10 Condition of Site. As of the date hereof and the Effective Date, Buyer has had opportunity to conduct its own investigation of the Site and the Landfill and all Applicable Laws thereto, and has satisfied itself as to its condition. Buyer acknowledges that the Site is in its existing condition "AS-IS, WHERE-IS, AND WITH ALL FAULTS" with respect to all facts, circumstances, conditions and defects, and Seller shall have no obligation to determine or correct any such facts, circumstances, conditions or defects or to compensate Buyer for same, notwithstanding anything herein. Seller makes no representations or warranties regarding the Site. Buyer assumes the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the Site existing as of the date hereof, and with respect to the facts, circumstances, conditions or defects existing as of the date hereof, Buyer will rely strictly and solely upon Buyer's inspections and examinations of the Site and the Landfill.

15.11 Electronic Signatures; Counterparts. Electronic (.pdf) signatures of the Parties shall be acceptable for all purposes of this Agreement. This Agreement may be executed in two or more

originals, facsimile or .pdf counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

15.12 Consolidation or Joinder. At the request of Seller or Buyer, any proceeding, including any arbitration or mediation between the Parties may include, by consolidation or joinder, additional Persons (including PGS) that are substantially involved in a dispute involving common questions of fact or law whose presence is required if complete relief is to be accorded in such proceeding. Consent by either Party to the joinder of additional Persons or consolidation of proceedings shall not constitute consent to such proceedings.

15.13 Third Party Beneficiaries. This Agreement is intended to be solely for the benefit of the Parties hereto and their permitted successors and assignees and is not intended to and shall not confer any rights or benefits on any third Party not a signatory hereto; except as provided herein with respect to any Financing Party, which Financing Party shall be deemed capable of enforcing the rights and interest granted to the Financing Party herein.

15.14 Limitation of Liability. Except in connection with (x) claims by third parties (including any Governmental Authority) that are neither Buyer Indemnified Parties nor Seller Indemnified Parties, (y) damages explicitly provided for herein, including amounts payable by Seller pursuant to Section 4.4, and (z) damages resulting from the fraud or willful misconduct of either Party, which damages as to each of the foregoing shall not be credited to the limitation of liability in Section 15.13(b):

(a) neither Party shall be liable to the other Party for any special, indirect, loss of use, lost profits, or consequential damages arising under or out of this Agreement or the transactions contemplated in this Agreement; and

(b) Losses or any liabilities arising under or out of this Agreement or the transactions contemplated in this Agreement shall not: (i) for the period prior to the Commercial Operation Date, exceed an amount equal one hundred percent (100%) of the Estimated Royalties for a twelve (12) month period; and (ii) for any period following the Commercial Operation Date, exceed the aggregate amount of Royalty Payments made in the twelve (12) month period immediately prior to the damages, Loss, or liability, as relevant, was incurred by Buyer; provided that if the period since the Commercial Operation Date is less than twelve (12) months, the limitation of liability shall be calculated with reference to the Estimated Royalties for a twelve (12) month period.

15.15 Time of the Essence. Time is of the essence in the achievement of the RNG Facility Commercial Operation Date.

*[Signature page to follow]*

IN WITNESS WHEREOF, the Parties hereto have executed this Landfill Gas Purchase Agreement the day and year first above written.

SELLER:

NEW RIVER SOLID WASTE ASSOCIATION

By: /s/ Karen Cossey

Title: Chairman

10/5/2020

By: /s/ Cathy Rhoden

Title: Secretary-Treasurer  
10/5/2020

BUYER:

NEW RIVER RNG LLC

By: /s/ David Unger

Title: Senior Vice resident

**CERTIFICATION PURSUANT TO RULES 13a-14(a) AND 15d-14(a)  
UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Adam Comora, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of OPAL Fuels Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 15, 2023

By: /s/ Adam Comora  
Co-Chief Executive Officer  
(Co-Principal Executive Officer)





**CERTIFICATION PURSUANT TO RULES 13a-14(a) AND 15d-14(a)  
UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Jonathan Maurer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of OPAL Fuels Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 15, 2023

By: /s/ Jonathan Maurer  
Co-Chief Executive Officer  
(Co-Principal Executive Officer)



**CERTIFICATION PURSUANT TO RULES 13a-14(a) AND 15d-14(a)  
UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Ann Anthony, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of OPAL Fuels Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 15, 2023

By: /s/ Ann Anthony  
Chief Financial Officer  
(Principal Financial Officer)



**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of OPAL Fuels Inc. (the "Company") on Form 10-Q for the three months ended March 31, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Adam Comora, Co-Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 15, 2023

/s/ Adam Comora

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Name: Adam Comora

Title: Co-Chief Executive Officer

(Co-Principal Executive Officer)



**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of OPAL Fuels Inc. (the "Company") on Form 10-Q for the three months ended March 31, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jonathan Maurer, Co-Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 15, 2023

/s/ Jonathan Maurer

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Name: Jonathan Maurer

Title: Co-Chief Executive Officer

(Co-Principal Executive Officer)





**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of OPAL Fuels Inc. (the "Company") on Form 10-Q for the three months ended March 31, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Ann Anthony, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 15, 2023

/s/ Ann Anthony

Name: Ann Anthony

Title: Chief Financial Officer

(Principal Financial Officer)