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February 7, 2020

British Columbia Utilities Commission Suite 410, 900 Howe Street Vancouver, BC V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary and Manager, Regulatory Support

Dear Mr. Wruck:

Re: FortisBC Energy Inc. (FEI)

Section 71 of *Utilities Commission Act* (UCA) and British Columbia Utilities Commission (BCUC) Rules for Natural Gas Energy Supply Contracts

Filing of a Biomethane Purchase Agreement (BPA) between FEI and REN Energy International Corp. (REN) (Application) - REDACTED

In accordance with section 71 of the UCA and the BCUC Rules for Natural Gas Energy Supply Contracts (Rules), FEI respectfully files for BCUC acceptance of a Biomethane Purchase Agreement (BPA) between FEI and REN dated March 19, 2019. The BPA between FEI and REN includes two amending agreements, (Amending Agreement No. 1 dated September 13, 2019 and Amending Agreement No. 2 dated January 17, 2020), to account for revised biomethane volumes and for REN to pay for FEI's cost of interconnection for the project. Collectively, the agreement and the amending agreements are referred to as the REN BPA. A copy of the executed REN BPA is provided in Appendix A.

Under the REN BPA, REN will supply biomethane (Renewable Natural Gas or RNG) to FEI for injection into FEI's existing natural gas system. In order to monitor the quantity and quality of the biomethane supplied to FEI from REN, and to inject the supplied biomethane into FEI's pipeline, FEI will construct, own, and operate an interconnection station and interconnection pipeline (collectively the FEI Facilities) at the southern edge of the REN Facility. The cost of the FEI Facilities will be fully paid for by REN through a contribution in aid of construction (CIAC). Additionally, the operating and maintenance (O&M) costs incurred by FEI for the FEI Facilities will be recovered from REN annually. Collectively, the REN BPA and the FEI Facilities will be referred to as the Project.

The acquisition of biomethane (or RNG) in the REN BPA qualifies as a prescribed undertaking under section 18 of the Clean Energy Act (CEA), the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR), and Order in Council (OIC) No. 161/2017.



1. LEGISLATIVE AND REGULATORY FRAMEWORK

On April 18, 2010, the Provincial Government enacted the CEA. One of the key features of the CEA is the establishment of a number of legislated provincial energy objectives, including the objective to reduce greenhouse gas (GHG) emissions as well as reduce waste by encouraging the use of waste heat, biogas and biomass¹.

The CEA also provides that the Lieutenant Governor in Council (LGIC) can enact "prescribed undertakings" that are intended to encourage public utilities to pursue certain GHG reducing initiatives.

On May 14, 2012, the LGIC issued OIC 295/2012 approving the GGRR, which described classes of prescribed undertakings pursuant to section 18 of the CEA.

On March 21, 2017, the LGIC issued OIC 161/2017 approving an amendment to the GGRR related to RNG as follows:

- (3.7) A public utility's undertaking that is in the class defined in subsection(3.8) is a prescribed undertaking for the purposes of section 18 of the Act.
- (3.8) The public utility acquires renewable natural gas
 - (a) for which the public utility pays no more than \$30 per GJ, and
 - (b) that, subject to subsection (3.9), in a calendar year, does not exceed 5% of the total volume of natural gas provided by the public utility to its non-bypass customers in 2015.

The BCUC in its Decision and Order G-122-19² discussed that for a project to qualify as a prescribed undertaking under section 2(3.8) of the GGRR, it must satisfy the following three-part test:

- The public utility must be acquiring renewable natural gas (as opposed to some other form of commodity);
- The utility must pay no more than \$30 per GJ for that renewable natural gas; and
- Subject to certain exceptions, the annual volume of renewable natural gas acquired must not exceed 5% of the total volume of natural gas the utility provided to its non-bypass customers in 2015³.

¹ <u>http://www.bclaws.ca/civix/document/id/complete/statreg/10022_01#section2</u>.

² In the matter of FEI's Application for Approval of a Biomethane Purchase Agreement between FEI and the City of Vancouver.

³ Decision and Order G-122-19, page 8.



FEI submits that the Project satisfies the three-part test and qualifies as a prescribed undertaking based on the following:

- FEI is acquiring RNG from the Project;
- The acquisition price for RNG from the Project is below the \$30 per GJ maximum acquisition price in section 2(3.8)(a) of the GGRR. The terms of the REN BPA dictate that the maximum price payable by FEI to REN for biomethane cannot exceed the GGRR maximum acquisition cost, and REN will fully pay for the capital and O&M costs of the FEI Facilities; and
- The combined total volume of RNG is below the calculated maximum volume set out in section 2(3.8)(b) in the GGRR for FEI of approximately 8,900,000 GJs. The contractual maximum volume of RNG for the REN Facility is GJs and the current maximum supply contracted by FEI totals 899,250 GJs annually⁴. The total maximum contracted RNG volume, if the REN BPA is accepted, would be GJs annually, which is well below the maximum volume under the GGRR⁵.

Increasing biomethane supply is aligned with the Province of BC's Energy Objectives in the CEA. FEI is working to expand the supply of biomethane, and acceptance of the REN BPA will contribute significantly to this objective.

2. PROJECT OVERVIEW

This section provides a high-level overview of the Project. It includes a brief description of the Project developer, the Fruitvale Biomass Facility, the projected volume, discussion regarding the injection location capacity, the biomass conversion process and the FEI Facilities required for interconnection to FEI's existing natural gas pipeline.

2.1 BACKGROUND ON REN

REN is a newly formed company based in Kelowna, British Columbia (BC). REN's goal is to support zero waste in communities through sustainable enterprise. REN has signed a -year agreement with ATCO Wood Products Ltd. (ATCO) for the required biomass feedstock for the Project and will purchase land from ATCO at their sawmill site located in Fruitvale, BC in order to locate the Project close to the required biomass feedstock supply.

⁴ Includes only accepted agreements to date and not the agreements under consideration by the BCUC from Tidal Energy Marketing Inc. (Tidal Energy).

⁵ Including the Tidal BPAs' maximum contractual volume of GJs, the combined total maximum contracted RNG volume equals GJs annually.



2.2 FRUITVALE BIOMASS FACILITY

REN will be constructing, owning, and operating a facility (the REN Facility), which will receive and process wood waste to produce biomethane. The process, described in more detail below, will use proven technology building blocks to create syngas, convert that gas to methane and upgrade it to pipeline quality biomethane. The biomethane will be delivered to FEI via the FEI Facilities, as described in Section 2.6, which is an FEI-owned interconnection station and pipe to the existing FEI natural gas system.

Figure 1 below shows the location of the Project in relation to the highway and the existing FEI pipeline. The FEI pipeline at this location is referred to as the Yahk-Trail Lateral. The Project will be located approximately eight kilometres northeast of Fruitvale, BC, or fifteen kilometres east of Trail, BC along Highway 3B on a former sawmill site. The site is owned and operated by ATCO. REN will purchase a parcel of the site from ATCO to develop the Project.



Figure 1: REN Facility and FEI Interconnection

2.3 **PROJECTED SUPPLY**

Based on the process information provided by REN, the REN Facility will be capable of producing up to GJS (or Petajoules or PJS) of RNG. REN expects commercial operation to commence in the Fall of 2021. The REN Facility is expected to reach full production capacity within 12 months of commercial operation.



REN expects a constant and consistent supply of feedstock that will translate into a relatively consistent and steady flow rate of biomethane over time.

2.4 INJECTION LOCATION AND SYSTEM CAPACITY

Injection Location

REN considered its location in the conceptual development phase of the Project and anticipated that the best Project location would be close to an FEI Transmission Pressure line. The location of the Project and FEI's Transmission Pressure line is shown in Figure 1 in Section 2.2.

The expected maximum annual production equates to an injection rate of approximately Nm³/h⁶. Based on the project location and the flow rate, FEI will connect the REN Facility to the existing FEI transmission system. The proposed tie-in location to the Yahk-Trail Lateral is on an FEI pipeline right-of-way on the property. This will allow FEI to construct its facilities, including the connecting pipeline, without the need to either purchase land or establish an additional right-of-way for the pipeline.

System Capacity

FEI reviewed existing operations and demand on the pipeline as part of its analysis of the Project. Through this analysis, FEI confirmed that the natural gas system can safely and reliably accept the volume of biomethane contemplated in the REN BPA. Specifically, at the injection rate of **mmm** Nm³/h, the natural gas system is able to accommodate the total maximum contractual flow on the Yahk-Trail Lateral without the need for system capacity improvements.

FEI expects, however, that seasonal capacity or other system constraints may occur up to five days per year. Therefore, as a precaution, the REN BPA includes a clause which limits FEI's financial obligation to purchase biomethane from REN in the event there are potential seasonal capacity or other constraints for up to ■ days per year. This is referred to as "Maintenance/Rejection of Supply" in Table 1 in Section 3.1 of the Application.

2.5 BIOMASS CONVERSION PROCESS

The REN Facility will process approximately tonnes of wood waste (biomass) as feedstock material supplied by ATCO to REN in order to create biomethane. Though the REN Facility will be the first of its kind in Canada, REN is using modules from proven technologies and a respected engineering constructor and integrator. A brief description of the process follows below.

At a high level, the process consists of creating syngas from wood, converting syngas to methane (and carbon dioxide) and then purifying the gas to meet pipeline specifications by

⁶ This translates to an equivalent of annually, the contract maximum.



removing carbon dioxide. The process is further broken down into five main parts and summarized in Figure 2 below.



The summarized biomass conversion process consists of the following five steps:

- Step 1 Treatment. Wood waste received at the REN Facility will first be chipped and screened to create a uniform material size, and to remove contaminants such as rocks and metals. Depending on the moisture in the raw material, it may be dried prior to the next step.
- Step 2 Gasification. Wood waste is fed into a reactor vessel that superheats the material to about 900 degrees Celsius using a thermo-chemical reaction. The solid material vapourizes into a product gas known as syngas that is comprised of three main gases: hydrogen (H₂), carbon dioxide (CO₂) and carbon monoxide (CO) along with water vapour (H₂O).
- Step 3 Syngas Cleaning and Conditioning. At this stage the gas contains compounds which can condense into "light and heavy tars". The tars are absorbed into an oil which then undergoes a stripping process to recycle the oil for continued use in heating the gasifier. The syngas is also sent through a final purification and dewatering process in this step.
- Step 4 Methanation. This step involves the conversion of gases in the syngas to methane (CH₄). The syngas undergoes a catalytic process in a series of methanation reactor vessels to increase composition of methane in the gas using CO and H₂. In addition to methane, CO₂ is also produced.
- **Step 5 Purification.** The gas produced in the previous step will be purified using pressure-swing adsorption (PSA) to remove remaining carbon dioxide.

The biomethane will then be compressed to the required pressure and delivered to FEI at the FEI Facilities where it will be continuously monitored by FEI for quality prior to injection into the FEI system.



2.6 FEI FACILITIES

In order to monitor the quantity and quality of the biomethane supplied to FEI from the REN Facility, and to inject the supplied biomethane into FEI's pipeline, FEI will construct, own, and operate the FEI Facilities, which include an interconnection station and interconnection pipeline at the southern edge of the REN Facility. As previously discussed, REN will fully pay for the FEI Facilities through a CIAC and FEI will recover the O&M costs for the FEI Facilities from REN annually.

The interconnection station will serve the same function as other biomethane injection stations, including the following:

- Gas Composition analysis (methane, oxygen, carbon dioxide, carbon monoxide, hydrogen, and hydrogen sulphide);
- Biomethane flow measurement;
- Pressure regulation;
- Safety shutoff and return to customer flow;
- Odourization;
- Communications; and
- Automatic control.

FEI will construct about 160 metres of 60 millimetre steel interconnection pipe between the FEI interconnect station and the existing FEI Transmission Pressure main running parallel to the southern edge of the ATCO property.

3. ANALYSIS OF THE PROJECT

This section provides an analysis of the Project, including the REN BPA, the FEI Facilities costs, the cost of service attributable to the REN BPA, the incremental rate impact of the Project for FEI's non-bypass customers, and the risks and mitigation measures associated with the Project.

3.1 REN BPA SUMMARY

The REN BPA is a 20-year agreement that allows REN to sell biomethane to FEI. The key terms of the REN BPA are summarized in Table 1 below. During the course of the development of the Project and negotiations between FEI and REN, amendments were made to the REN BPA. The two Amending Agreements are filed as part of Appendix A. Overall the changes seek to mitigate Project risks, identified in Section 3.3, and to ensure that the Project will sustainably produce RNG for the duration of the REN BPA term. Table 1 reflects the final terms of the REN BPA.



ltem	REN BPA Amount	Contract Clause	Comment
Contract Term	20 years	Section 2.1	
Renewal	1 year	Section 2.3	
Minimum Annual Volume	GJs	Schedule D Section 1.1 (b)	Represents the minimum biomethane volume FEI agrees to purchase annually from the REN Facility. See Amending Agreement No. 2.
Maximum Annual Volume	GJs	Schedule D Section 1.1 (a)	Represents the maximum biomethane volume FEI agrees to purchase annually from the REN Facility. See Amending Agreement No. 1.
Price (per GJ)		Schedule D Section 2.1	Represents the price FEI will pay to REN for biomethane, subject to the Maximum Price described below. See Amending Agreement No. 2.
Inflation Factor on Price	CPI	Schedule D Section 2.2	Consumer Price Index BC All Items, adjusted annually each anniversary of in-service date.
Maximum Price	BCUC or BC Government RNG supply Purchase Price	Schedule D Section 2.4	Maximum Price as determined by FEI will not exceed the GGRR maximum acquisition cost.
Initial Capital Cost of the FEI Facilities	Estimated at	Section 6.3, Schedule D Section 3	REN will pay the actual capital cost of the FEI Facilities through a CIAC. See Amending Agreement No. 2.
Annual O&M Fee	Estimated at per year, escalated annually by CPI	Section 6.3, Schedule D Section 3	REN will be invoiced annually by FEI for the actual O&M costs attributable to the FEI Facilities. See Amending Agreement No. 2.
Maintenance/Rejection of Supply		Section 5.6 (a) & (b)	FEI is not required to purchase biomethane in the event of seasonal capacity constraints. See Amending Agreement No. 1.

Table 1: REN BPA Summary

3.2 FEI SYSTEM

3.2.1 Costs for the FEI Facilities

The estimated capital cost for the FEI Facilities is **Example**, excluding Allowance for Funds Used During Construction (AFUDC) which is estimated to be **Example**. As specified in the REN BPA, REN will pay, in the form of a CIAC, the actual capital cost of the FEI Facilities, including AFUDC, to FEI subsequent to the completion of the construction of the FEI Facilities.



The annual O&M cost for the FEI Facilities is forecast to be approximately **Example**. This amount is primarily comprised of parts, labour, electricity costs and odourant. FEI will invoice REN annually for the actual O&M costs incurred for the FEI Facilities.

3.2.2 Cost of Service and Bill Impact

The cost of service associated with the REN BPA includes the price paid to REN for biomethane, which is per GJ escalated annually by CPI up to a maximum price of \$30 per GJ, as specified in Schedule D of the REN BPA. There is no cost of service impact related to the FEI Facilities due to REN's contractual agreement to pay for the actual capital costs and the actual annual O&M costs for the FEI Facilities.

Based on the terms of the REN BPA, as described in Section 3.1 above, the maximum price payable by FEI to REN for biomethane cannot exceed the GGRR maximum acquisition cost. This contractually established maximum price, coupled with REN's agreement to fully pay for the capital and O&M costs of the FEI Facilities, results in an acquisition cost for biomethane that does not exceed the \$30 per GJ maximum prescribed by section 2(3.8)(a) of the GGRR.

FEI's non-bypass customers pay the difference between the acquisition cost of biomethane and the amounts recovered from biomethane customers at the current Biomethane Energy Recovery Charge (BERC) rate. FEI has calculated the initial delivery rate impact to nonbypass residential customers from the aforementioned difference between costs and recoveries to be 0.9 percent, resulting in an average bill impact of \$3.80⁷ for residential customers. When the Project ramps up to full production, which is currently forecast to occur in Year 5, the average annual bill impact for residential customers will increase to approximately \$10⁸.

3.3 **RISKS AND MITIGATION**

FEI describes the primary risks in the following table and how these risks have been mitigated by contractual provisions in the REN BPA.

Risk Item	Description	Risk Mitigation – BPA Clause	Description
Supplier Stability	REN is a newly formed company and has yet to develop a project into commercial operation.	Section 9.3	FEI requires a letter of credit equivalent to the cost of the FEI Facilities, including the cost of removal, which could be stranded in the event that the contract is terminated prior to FEI receiving the CIAC from REN.

Table 2: Risk & Mitigation Summary

⁷ Appendix B, Schedule 12, Line 21.

⁸ Ibid.



Risk Item	Description	Risk Mitigation – BPA Clause	Description
Undersupply	REN is not able to deliver the minimum contractual volume of biomethane.	Section 9.2 & 9.3	In the event of default by REN, FEI may terminate at no cost and recover the cost of the FEI Facilities, including the cost of removal.
Constraints on FEI System	FEI is not able to accept biomethane based on FEI natural gas system constraints.	Section 5.6(b)	FEI expects that there may be up to five days when it is not able to accept biomethane; however, the REN BPA includes as a precaution, at no cost to FEI.
Biomethane Conversion Process	Wood waste biomass conversion to biomethane has not been commercially proven.	Section 9.2 & 9.3	REN assumes the risk of Project underperformance. FEI may terminate and recover the cost of the FEI Facilities including the cost of removal, in the form of a letter of credit.

As shown in the above table, the key Project risks have been mitigated through the contractual provisions in the REN BPA. Further, the maximum price payable by FEI to REN for biomethane cannot exceed the GGRR maximum acquisition cost. This contractually established maximum price, coupled with REN's agreement to fully pay for the capital and O&M costs of the FEI Facilities, mitigates the risk that FEI's acquisition cost for biomethane will exceed \$30 per GJ.

4. APPROVALS SOUGHT

In this Application, FEI respectfully seeks acceptance from the BCUC of the REN BPA, pursuant to section 71 of the UCA, as a prescribed undertaking under section 18 of the CEA and section 2(3.7) to (3.8) of the GGRR.

A draft form of order sought is provided in Appendix C.

Confidentiality Request

FEI requests that certain portions of this Application and certain portions of the REN BPA, attached as Appendix A to the Application, be redacted. FEI also requests that the financial schedules, attached as Appendix B, be held confidential by the BCUC. FEI makes these requests pursuant to Section 18 of the BCUC's Rules of Practice and Procedure regarding confidential documents set out in Order G-15-19, and section 71(5) of the UCA. FEI also requests that the BCUC exercise its discretion under section 6.0 of the Rules for Natural Gas Energy Supply Contracts and allow this information to remain confidential.

The REN BPA contains commercially sensitive terms and negotiated rates and volumes, the disclosure of which will potentially impede FEI's negotiations with other potential Biomethane suppliers in seeking the best possible terms for FEI's customers. FEI has also negotiated



certain conditions that are specific to this Project which may not be applicable to other projects and may hamper negotiations for future BPAs. The financial schedules contain the price for biomethane paid by FEI and, therefore, are considered to be commercially sensitive. The confidential treatment is consistent with previous practices with respect to Biomethane supply agreements⁹. The terms of the REN BPA contemplate that FEI make such a request¹⁰.

5. CONCLUSION

The Project meets the requirements of the three-part test as a prescribed undertaking under the GGRR. The Project is to acquire RNG, at a maximum acquisition price not exceeding the \$30 per GJ threshold, and FEI's annual volumes of biomethane supply will remain well below the maximum volume. As such, the REN BPA should be accepted by the BCUC under section 71 of the UCA as a prescribed undertaking under the GGRR.

Approval of the REN BPA will support the advancement of RNG supply from wood biomass conversion in BC. RNG supply from wood biomass feedstock supports the reduction of greenhouse gas emissions, which is an objective identified in the CEA. Furthermore, biomass feedstock converted to RNG contributes significantly to the 15 percent renewable target identified in the CleanBC Plan¹¹.

If further information is required or have any questions regarding this submission, please contact Scott Gramm, Manager, Renewable Natural Gas, at (604) 576-7242.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Doug Slater

Attachments

cc (email only): Registered Parties to the Tidal BPA Proceeding

⁹ See Order E-13-13 (keeping confidential the supply agreement and the financial model).

¹⁰ The REN BPA, Clause 15.1.

¹¹ https://cleanbc.gov.bc.ca/

Appendix A FEI-REN BIOMETHANE PURCHASE AGREEMENTS

BIOMETHANE PURCHASE AGREEMENT

THIS AGREEME	NT made as of MARCH 19 th , 2019 (the "Execution Date")
BETWEEN:	FORTISBC ENERGY INC., 16705 Fraser Highway, Surrey, British Columbia V4N 0E8 ("FEI")
AND:	REN Energy International Corp., 1100 - 1631 Dickson Avenue, Kelowna, BC V1Y 0B5 (the "Supplier")
WHEREAS:	

- A. The Supplier intends to purchase or lease premises located at 3507 Highway 3B, Fruitvale, British Columbia (the "Lands").
- B. The Supplier intends to finance, design, construct, operate and maintain a biomass processing facility on the Lands to capture and purify and upgrade biogas generated by or processed on the Lands to pipeline quality biomethane (the "Biomethane") for injection into FEI's existing natural gas distribution system.
- C. To monitor the quality and quantity of the Biomethane and inject the Biomethane into FEI's existing natural gas distribution system adjacent to the Lands, FEI intends to finance, construct and operate facilities on the Lands to connect the Supplier's facilities to FEI's gas distribution system. The Supplier has agreed to grant FEI continued access to, and use of a portion of, the Lands to operate and maintain its facilities on the Lands.
- D. FEI wishes to purchase, and the Supplier wishes to sell, the Biomethane to FEI on the terms and conditions provided in this Agreement.

NOW THEREFORE, in consideration of the mutual promises set out herein and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the Supplier and FEI (collectively the "Parties" and either of them a "Party") agree as follows:

ARTICLE 1 – CONDITIONS PRECEDENT

- **1.1** Acquisition of Interest in the Lands. The obligation of the parties to carry out the transactions contemplated by this Agreement is conditional upon the Supplier becoming:
 - (a) the registered owner of the Lands; or
 - (b) a tenant of the Lands pursuant to a written lease agreement have a term greater than the Term of this Agreement and subject to the lease conditions set out in section 1.6 (*Lease Conditions*) being met;



within 30 days of acceptance and approval of this Agreement by the British Columbia Utilities Commission ("BCUC"), or such later date as may be agreed between the parties. The foregoing condition is a true condition precedent and may not be unilaterally waived by either party, and if the condition is not met by the specified date, then the parties' obligations under this Agreement will be at an end, and thereafter neither party shall have any further or continuing obligation to the other under this Agreement, except for those obligations and provisions which are specifically stated to survive the expiration or termination of this Agreement.

1.2 **Application of** *Utilities Commission Act.* The Supplier acknowledges FEI is a public utility as defined in the British Columbia *Utilities Commission Act* and this Agreement, and any amendments thereto, are subject to acceptance and approval by the BCUC in accordance with the *Utilities Commission Act*.

1.3 Filing with BCUC.

- (a) Filing Obligation. FEI will file this Agreement with the BCUC within a reasonable period of time after the Execution Date.
- (b) Supplier Assistance. The Supplier will, at the request of FEI, provide any assistance reasonably required by FEI to secure BCUC acceptance and approval, including filing documents in support of FEI's application to the BCUC and providing argument and witnesses in support of the filing.

1.4 Regulatory Review Termination.

- (a) If BCUC approval is not granted, or is granted on terms and conditions which are not reasonably satisfactory to the Parties having regard to their *bona fide* business interests, the Parties agree to negotiate in good faith to address the impacts thereof, including mitigation of costs; provided that if the Parties are unable to reach an agreement as to the manner in which to address such terms and conditions, either Party may terminate this Agreement upon written notice of termination to the other Party.
- (b) If the Agreement is terminated under this section, the Parties' obligations under this Agreement will be at an end, and thereafter neither Party shall have any further or continuing obligation to the other under this Agreement, except for those obligations and provisions which are specifically stated.
- **1.5 Responsibility for Costs.** The Parties acknowledge and agree that if either Party elects to undertake any work or incur any costs with respect to this Agreement prior to satisfaction of the conditions precedent, including BCUC approval, such Party will be solely responsible for all costs so incurred.
- **1.6** Lease Conditions. If the Supplier acquires an interest in the Lands by way of lease, it is a further requirement applicable to the satisfaction of the condition precedent that the Landlord, by written agreement, substantially in the form set out in Schedule E, (the "Consent Agreement"), consents to the Supplier granting FEI access to and use of the Lands to install, operate and maintain the FEI Facilities pursuant to the terms and conditions herein contained and that an executed copy of the Consent Agreement be delivered to FEI by the Supplier.

ARTICLE 2 - TERM

- 2.1 **Term.** This Agreement will commence on the Execution Date and expire on October 31st following the twentieth (20th) anniversary of the In-Service Date (the "Initial Term"), unless terminated earlier or renewed in accordance with the terms of this Agreement (the "Term"), where "In-Service Date" means the earlier of:
 - (a) the business day after FEI Facilities have accepted at least **IDD** gigajoules ("GJ") of Biomethane per day for seven (7) consecutive days; and
 - (b) the business day after the FEI Facilities have accepted Biomethane for a cumulative period of thirty (30) days.
- 2.2 Delay in In-Service Date. Unless the Supplier, in the reasonable opinion of FEI, is continuing to undertake the work necessary to construct and install the Supplier Facilities with reasonable diligence, if the In-Service Date does not occur within eighteen (18) months of acceptance of this Agreement by BCUC, or such later date as agreed by the Parties in writing, FortisBC may, at its option, and in addition to and without prejudice to any other right or remedy it may have, terminate this Agreement by written notice to the Supplier effective the date set out in such notice, without liability therefore or payment of any damages or penalties by FEI to the Supplier as a result of such termination, and the provisions of section 8.2 [*Effect of Default*] shall apply.
- 2.3 **Renewal.** This Agreement will renew automatically for additional one (1) year terms (each a "**Renewal Term**") unless a Party provides the other Party with written notice of its intention to terminate this Agreement at least one (1) year prior to the expiry of the Initial Term and six (6) months prior to the expiry of any Renewal Term.

ARTICLE 3 - DIVISION OF RESPONSIBILITIES

- 3.1 **Supplier Facilities**. The Supplier will design, build, operate, maintain, repair, upgrade, replace and support facilities on the Lands, as more particularly identified in Schedule C (the "**Supplier Facilities**"), either directly or through an affiliated company, to produce, capture and purify biogas and deliver Biomethane to the FEI Facilities.
- 3.2 **FEI Facilities.** FEI will design, build, operate, maintain, repair, upgrade, replace and support facilities on the License Area (as defined below), as more particularly identified in Schedule C (the *"FEI Facilities"*), to connect to the Supplier Facilities, measure and monitor Biomethane quantity and quality and inject the accepted Biomethane into FEI's existing gas distribution system.
- 3.3 **Prime Contractor.** For the purposes of the *Workers Compensation Act* (British Columbia), FEI is designated the prime contractor in relation to the construction, operation, maintenance and support of the FEI Facilities.
- 3.4 **FEI Approvals.** FEI shall obtain and maintain any consents, permits, filings, orders or other approvals, including governmental consents and approvals, building and construction permits, environmental permits, zoning changes or variances (collectively the "**Approvals**") required, affecting or necessary for the ownership, installation, maintenance and operation of the FEI Facilities.

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- 3.5 **Supplier Approvals.** The Supplier shall obtain and maintain the Approvals required, affecting or necessary for the ownership, installation, maintenance and operation of the Supplier Facilities.
- 3.6 **Ownership of FEI Facilities.** The FEI Facilities are, and shall at all times remain, personalty and the property of FEI, despite the degree to which they may be annexed or affixed to the Lands and despite any rule of law or equity to the contrary and shall be freely alienable by FEI as its own property. FEI shall be entitled to install notices on the FEI Facilities identifying FEI's ownership.
- 3.7 **Existing Supplier Approvals.** If any existing Approvals issued to the Supplier need to be updated to reflect the operation of the FEI Facilities on the Lands, and FEI is not able to update such Approvals in accordance with section 3.4 [*FEI Approvals*], the Supplier shall ensure such approvals are updated as required.
- 3.8 Utilities. The Supplier will, at no cost to FEI, provide the electrical and telephone connections to the limits of the FEI Facilities. FEI will pay for utility consumption as directly invoiced to FEI by the service provider. The Supplier shall not be liable for any disruptions in such services, unless caused by any negligent act or omission of the Supplier.
- **3.9 Cooperation.** To facilitate the connectivity between the Supplier Facilities and the FEI Facilities and manage the monitoring and injection of Biomethane into FEI's natural gas distribution system, the Parties agree to:
 - (a) cooperate in the design, permitting, construction and connection of the respective facilities, including any upgrades and modifications to such facilities; provided that despite the exchange or review of, or comment on, any design drawings, by the other Party, each Party shall be solely responsible for the design and construction of their respective facilities;
 - (b) share operating data and data related to the interface between the FEI Facilities and the Supplier Facilities, and work together to optimize operation of their respective facilities; and
 - (c) notify each other in advance of proposed operational changes or system modifications or upgrades to their respective facilities and cooperate in the design of upgrades and modifications to the respective facilities, to ensure such changes, modifications or upgrades do not negatively impact the operation of the other Party's facilities; provided that despite the exchange or review of, or comment on, any design drawings, by the other Party, each Party shall be solely responsible for the design, construction and maintenance of their own facilities.

ARTICLE 4 – ACCESS TO AND USE OF LANDS

4.1 **Grant of License**. The Supplier, hereby grants to FEI, at no cost, a non-exclusive irrevocable license to those portions of the Lands as mutually agreed between the parties and to be as shown outlined on drawings attached as Schedule B (the "License Area") at all times and from time to time, with or without vehicles, machinery and equipment, for FEI and its authorized employees, contractors and agents, to excavate, install, place, construct, renew, alter, repair, maintain, use, abandon, remove or replace the FEI Facilities, in whole or in part. Upon determination of the

License Area, the parties will amend Schedule B in accordance with section 16.7 (*Amendments to be in writing*) to include a drawing of the License Area.

- 4.2 Access over the Lands. The Supplier, hereby grants to FEI, at no cost, the free and unobstructed right to access over and across the Lands, with or without vehicles, machinery and equipment, as required from time to time, for FEI and its authorized employees, contractors and agents to access the FEI Facilities; provided however this right shall in no way restrict the Supplier from maintaining, changing or improving the Lands as long as FEI and its authorized employees, contractors and agents continue to have access to the FEI Facilities. FEI's right of access over the Lands is subject to FEI's compliance with the reasonable requirements of the Supplier for the safety and security of the Lands, including as to access points and limitation on access during normal working hours except in the case of emergency.
- 4.3 **Grant of Rights to Third Parties.** Subject to section 4.5 [*Non-Interference*], the grant of rights to FEI hereunder does not preclude or prevent the Supplier from granting easements, statutory rights of way or other grants, leases or licences over the Lands to any other person.

4.4 Use of License Area. FEI shall:

- (a) not do, suffer or permit anything in, on or from the License Area that may be or become a nuisance or annoyance to the owners, occupiers or users of land or premises adjacent to or near the Lands or to the public, including the accumulation of rubbish or unused personal property of any kind;
- (b) not do, suffer or permit any act or neglect that may in any manner directly or indirectly cause injury to the License Area;
- (c) use the License Area only for the purposes set out in this Agreement;
- (d) except as otherwise provided in this Agreement, pay all costs and expenses of any kind whatsoever associated with and payable in respect of FEI's use of the License Area, the FEI Facilities and all equipment, furniture and other personal property brought onto the License Area by FEI, including without limitation, property taxes, levies, charges and assessments, permit and license fees, repair and maintenance costs, administration and service fees, gas, water, sewage disposal and other utility and service charges and payments for work and materials;
- (e) carry on and conduct its activities in, on and from the License Area in compliance with any and all applicable laws from time to time in force, and to obtain all required approvals and permits thereunder, and not to do or omit to do anything in, on or from the License Area in contravention thereof;
- (f) not erect or place any sign or advertising within the License Area (save and except signage identifying FEI's ownership of the FEI Facilities in accordance with section 3.6 [Ownership of FEI Facilities] without the prior written approval of the Supplier, acting reasonably; not to bring on or deposit any soil or fill onto the License Area except with the written consent of the Supplier;

- co-ordinate all installation and construction activities on the License Area with the (g) Supplier;
- (h) cover all below ground works and restore the surface of the License Area to the same condition that existed at the commencement of the works to the reasonable satisfaction of the Supplier; and
- (i) discharge any builders' lien which may be filed against the title to the Lands within 30 days of filing, and comply at all times with the Builders Lien Act (British Columbia), in respect of any improvements, work or other activities undertaken by or on behalf of FEI.
- 4.5 Non-Interference. The Supplier will not do or knowingly permit to be done anything in, under, over, upon or with respect to the Lands which, in the reasonable opinion of FEI, may interfere with, diminish or injure FEI's rights hereunder or the installation, maintenance use or operation of the FEI Facilities, including but not limited to, anything which:
 - interrupts, endangers, impedes, disturbs or causes damage to the FEI Facilities or its (a) operation, use, security or functionality;
 - (b) removes, diminishes or impairs any vertical or lateral support for, or causes the movement or settlement of, the FEI Facilities; and
 - (c) causes, permits or suffers any structure, equipment, act or function to exert any vertical load or lateral load upon or against, or impair the structural integrity of, the FEI Facilities;

without the prior written consent of FEI and in accordance with any conditions FEI may reasonably specify as a condition of such consent.

4.6 Sale or Transfer of the Lands. The Supplier shall not sell or otherwise transfer its interest in and to the Lands, unless, with the written consent of FEI in accordance with section 16.9 [Assignment], the transferee assumes all the terms and conditions of this Agreement.

ARTICLE 5 – QUALITY, QUANTITY, TITLE AND INDEMNITY

5.1 **Biomethane Quality and Delivery Quantity.**

- (a) FEI will monitor Biomethane guality and quantity at the interconnection point between the Supplier Facilities and the FEI Facilities, as generally shown in the schematic drawing attached as part of Schedule C (the "Interconnection Point") to determine whether the Biomethane meets the Specifications and the Volumetric Limits.
- (b) FEI agrees to accept any Biomethane made available by the Supplier which:
 - (i) meets the specifications as prescribed by FEI from time to time, acting reasonably, (the "Specifications"), the current of which are set out in Schedule A; and
 - (ii) subject to the volumetric requirements set out in Schedule D (the "Volumetric Limits").
- (c) Any Biomethane not accepted by FEI will be returned to the Supplier Facilities or will be prevented from entering the FEI Facilities at the Interconnection Point.

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- 5.2 Acceptance of Non-Compliant Biomethane. FEI, at its sole discretion and without any obligation to do so, may accept Biomethane that does not meet the Specifications or is outside the Volumetric Limits. Any such Biomethane accepted by FEI into the FEI Facilities will be deemed to meet the Specifications and FEI shall be deemed to have waived any failure to satisfy the Volumetric Limits in relation thereto.
- 5.3 Minimum Annual Biomethane Supply. If the Supplier does not supply:
 - (a) the Minimum Annual Quantity (as defined in Schedule D (*Commercial Terms*)) for any two
 (2) consecutive Contract Years (as defined in Schedule D (*Commercial Terms*)), or
 - (b) the Minimum Monthly Quantity (as defined in Schedule D (*Commercial Terms*)) for any six (6) consecutive months;

FEI, at its option, may:

- (c) reduce the Minimum Annual Quantity and/or the Minimum Monthly Quantity, as the case may be, to such quantities as established by FEI in its sole discretion [having regard to, among other things, the quantity of Biomethane actually supplied by the Supplier and the ability of FEI to assign the released quantity to other biogas producers/owners.]
- (d) terminate this Agreement upon written notice to the Supplier, whereupon the provisions of ARTICLE 9 will apply.
- 5.4 Increased Production Volume –The Supplier will notify FEI of any proposed changes or improvements to the Supplier Facilities or the Lands or any other activity or circumstance which may result in a long-term increase to Biomethane flow by more than 10% above the Maximum Yearly Quantity to allow FEI to evaluate the impacts of such increase on the FEI Facilities and its gas distribution system and FEI's ability to accommodate and accept such increased production volume. Provided such Biomethane meets the Specifications, FEI may, in its discretion and upon notice to the Supplier, accept and purchase all or any portion of the additional production volume at the rates determined by Schedule D (*Commercial Terms*) either temporarily or permanently.
- 5.5 **Exclusivity.** In addition to its obligations to supply the minimum quantities of Biomethane as established in Schedule D (*Commercial Terms*), the Supplier covenants and agrees to exclusively sell any additional Biomethane available (the "**Excess Biomethane**") to FEI; provided that if FEI is, from time to time, unable to accommodate and accept the Excess Biomethane, the Supplier shall be entitled to use, sell or otherwise dispose of the excess production in a commercially and environmentally reasonable manner after consultation with FEI.
- 5.6 **Excuse from Non-Performance for Maintenance.** Neither Party will be considered to be in default under this Agreement where such Party's non-performance is as a result of undertaking maintenance or repair on their respective facilities provided that such Party is diligently undertaking such maintenance or repair to minimize its impacts and it being the intention of the Parties that maintenance or repair work will not exceed 5 days per month and 20 days per year in aggregate.
- 5.7 **Title and Warranty.** Provided the Biomethane meets the Specifications, or having failed to meet the Specifications, is accepted by FEI pursuant to section 5.2 [Acceptance of Non-Compliant Biomethane], title to and responsibility for that Biomethane shall pass from the Supplier to FEI at the Interconnection Point. Any Biomethane rejected by FEI will be redirected back to the Supplier Facilities and title to and responsibility for such Biomethane shall not pass to FEI. The Supplier

warrants that it has the right to convey and will transfer good and merchantable title to the Biomethane free and clear of all liens, encumbrances and claims.

- 5.8 Indemnity. The Supplier hereby agrees to indemnify and save FEI harmless from all losses, liabilities or claims, including reasonable legal fees and costs of court, arising from or out of claims of title, personal injury or property damage from the Biomethane or other charges thereon ("Claims") which attach before title passes to FEI. FEI hereby agrees to indemnify and save the Supplier harmless from all Claims which attach after title passes to FEI. Despite the foregoing, the Supplier will be liable for all Claims arising from the failure to deliver title to the Biomethane to FEI free and clear of any encumbrances.
- 5.9 **Audit and Verification.** Each Party will provide access to the other Party, from time to time during ordinary business hours, to its records and measurement equipment as reasonably requested by the other Party to verify compliance with the terms of this Agreement, including to verify the quality and quantity of Biomethane.

ARTICLE 6 – PURCHASE PRICE AND PAYMENT

- 6.1 **Payment for Biomethane.** Commencing from the In-Service Date and each month during the Term thereafter, FEI shall pay the Supplier for the quantity of Biomethane accepted by FEI into the FEI Facilities, as determined by meter readings, at the rates and subject to the adjustments and any deductions set out in Schedule D, plus applicable taxes thereon. The Supplier shall not be entitled to receive any payment from FEI for any Biomethane rejected by FEI and returned to the Supplier Facilities.
- 6.2 Payment Terms.
 - (a) On or about the 15th day of each month, FEI shall generate a statement for the preceding month showing the quantity of Biomethane accepted by FEI in GJ, the applicable rates and adjustments, the net amount payable and the cumulative quantity of Biomethane accepted for the then current year up to that month. If the quantity of Biomethane accepted is not known by the billing date, FEI will issue the statement based on a reasonable estimate of the quantity accepted and make the necessary adjustments as soon as practical and in any event by the next billing date.
 - (b) FEI will pay the net amount payable within 30 days of delivery of the statement to the Supplier.
 - (c) Any errors in any statement or disputes as to amounts due shall be promptly reported to FEI and any resulting underpayments or overpayments identified will be refunded or repaid with accrued interest at the rate of 1.5% per month (19.56% per annum).

ARTICLE 7 – ENVIRONMENTAL ATTRIBUTES AND REPORTING

7.1 **Offsets**. The parties agree FEI shall have the sole right, benefit, title and interest in and to, arising out of or resulting from the environmental benefits associated with the capture of and purification of biogas to produce biomethane by the Supplier Facilities and the displacement of traditional natural gas by biomethane in FEI's natural gas distribution system ("GHG Reductions"), whether



such right, benefit, title or interest is in existence as of the Effective Date or arises thereafter, including:

- (a) the sole right to claim title to, interest in, the benefit of or the responsibility for the GHG Reductions;
- (b) the sole right to register, certify or apply for the issuance or validation of any current or future credits, allowance, instrument, offset, certificate, right, benefit or advantage or proprietary or contractual right, whether or not tradable, (a "**Credit**") associated with the GHG Reductions;
- (c) the sole right to hold and to transfer or assign to any person its title to, benefit of or responsibility for the GHG Reductions or the associated Credits;
- (d) the sole right to apply the GHG Reductions against its own or a third party's greenhouse gas emissions or to net those emissions to zero, whether or not as part of a legal obligation to reduce greenhouse gas emissions;
- (e) all revenues, entitlement, benefits and other proceeds arising from or related to the foregoing;

(collectively, the "Environmental Attributes").

- 7.2 Support and Assistance. The Supplier will, at FEI's expense, support FEI in all applications for the Environmental Attributes and provide any assistance, authorizations, documentation and information FEI reasonably requires in this regard, including:
 - (a) the quantification and verification of the carbon intensity of the Biomethane produced at the Supplier's Facilities; and
 - (b) authorization enabling FEI to apply on the Supplier's behalf for designation as a Part 3 fuel supplier with respect to resulting biomethane for the purposes of the *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act* and its regulations.
- **7.3 Reporting Requirements.** Subject to section 7.1 [*Offsets*], each Party shall be responsible to comply with reporting requirements of all applicable environmental laws with respect to emissions from their respective facilities.

ARTICLE 8 – DEFAULT

- 8.1 **Default.** Either Party (the "**Defaulting Party**") shall be in default of this Agreement if the Defaulting Party is in breach of any term, covenant, agreement, condition or obligation imposed on it under this Agreement, provided that:
 - the other Party (the "Non-Defaulting Party") provides the Defaulting Party with a written notice of such default and a 10-day period within which to cure such a default (the "Cure Period"); and
 - (b) the Defaulting Party fails to cure such default during the Cure Period, or if such default is not capable of being cured within the Cure Period, fails in good faith to commence the curing of such default upon receipt of notice of default and to continue to diligently pursue the curing of such default thereafter until cured.



- 8.2 **Effect of Default.** Upon default, the Non-Defaulting Party may, at its option and in addition to and without liability therefore or prejudice to any other right or remedy it may have:
 - (a) cease performing its obligations under this Agreement, including suspending or refusing to make any payment due hereunder, until the default has been fully remedied, and no such action shall relieve the Defaulting Party from any of its obligations under this Agreement;
 - (b) undertake the necessary steps to remedy the default at the Defaulting Party's expense, and such action shall not relieve the Defaulting Party from any of its obligations under this Agreement; or
 - (c) terminate this Agreement immediately upon notice to the other Party, whereupon the provisions of ARTICLE 9 shall apply.

ARTICLE 9 - EFFECT OF EXPIRY OR TERMINATION.

- 9.1 **Removal of FEI Facilities.** Upon the expiry or early termination of this Agreement, unless otherwise agreed by the Parties, FEI will, within 90 days following the expiry date or termination date, as the case may be, remove the FEI Facilities from the Lands and repair any damage to the Lands arising from such removal; provided that FEI will be obligated to remove only those portions of the FEI Facilities located above surface level and may leave any un-removed portions in a safe manner in accordance with FEI standard practice. Any portion of the FEI Facilities not removed by FEI will become the property of the Supplier at no cost to the Supplier.
- 9.2 Termination Payment. If:
 - (a) FEI terminates this Agreement pursuant to 8.2(c) as a result of default of the Supplier; or
 - (b) the Supplier sells or otherwise transfers its interest in and to the Lands in contravention of section 4.6 (*Sale or Transfer of the Lands*);

then, in addition to any other amounts due and owing by the Supplier to FEI, the Supplier shall pay to FEI, within thirty (30) days of invoicing, the following amounts (plus applicable taxes thereon):

- (i) FEI's net costs associated with removing the FEI Facilities, plus
- (ii) the unrecovered net book value of the FEI Facilities that will be stranded, adjusted for the positive or negative salvage value of the FEI Facilities.
- 9.3 Letter of Credit. The Supplier shall, if requested by FEI, provide FEI with a letter of credit issued by a Canadian Charted Bank, or other form of security acceptable to FEI, in an amount not less than the value of the underground portions of the FEI Facilities which can reasonably be expected to be stranded in the event of early termination of this Agreement, subject to adjustment each Contract Year to reflect the then current value of such FEI Facilities, but in no event in an amount greater than **Example**. FEI shall be entitled to draw on the letter of credit or realize on any other security provided for any amounts due and owing under this Agreement by the Supplier, including the termination payment set out in section 9.2 [*Termination Payment*].

ARTICLE 10 - INSURANCE REQUIREMENTS

- 10.1 **Insurance.** Each Party shall obtain and maintain the following insurance coverage and provide proof of coverage to the other Party:
 - (a) General Commercial Liability Insurance from insurers registered in and licensed to underwrite insurance in British Columbia for bodily injury, death and property damage in the amount of \$5,000,000 per occurrence naming the other Party as an additional insured with respect to this Agreement; and
 - (b) Such other insurance as reasonably required by the other Party from time to time.

Each Party shall be responsible for payment of any deductibles of their policies. All such policies shall provide that the insurance shall not be cancelled or changed in any way without the insurer giving at least 10 calendar days' written notice to the other Party.

ARTICLE 11 - ENVIRONMENTAL RELEASE AND INDEMNITY

- 11.1 Definition of Contaminants. "Contaminants" means collectively, any contaminant, toxic substances, dangerous goods, or pollutant or any other substance which when released to the natural environment is likely to cause, at some immediate or future time, material harm or degradation to the natural environment or material risk to human health, and includes any radioactive materials, asbestos materials, urea formaldehyde, underground or aboveground tanks, pollutants, contaminants, deleterious substances, dangerous substances or goods, hazardous, corrosive or toxic substances, hazardous waste or waste of any kind, pesticides, defoliants, or any other solid, liquid, gas, vapour, odour or any other substance the storage, manufacture, disposal, handling, treatment, generation, use, transport, remediation or release into the environment of which is now or hereafter prohibited, controlled or regulated by law.
- 11.2 **Supplier Release and Indemnity.** Despite any other provision of this Agreement, the Supplier acknowledges and agrees that FEI is not and shall not be responsible for any Contaminants now present, or present in the future, in, on or under the Lands, or that may or may have migrated on or off the Lands and hereby releases and agrees to indemnify FEI and its directors, officers, employees, successors and permitted assigns, from any and all liabilities, actions, damages, claims (including remediation cost recovery claims), losses, costs, orders, fines, penalties and expenses whatsoever (including all consulting and legal fees and expenses on a solicitor-client basis) arising from or in connection with:
 - (a) any release or alleged release of any Contaminants at or from the Lands;
 - (b) the presence of any Contaminants on or off the Lands before or after the Execution Date;

except with respect to any Contaminants brought onto the Lands by FEI or any Contaminants released from the Lands as a result of any negligent act or omission of FEI.

11.3 FEI Release and Indemnity. Despite any other provision of this Agreement, FEI shall release and indemnify the Supplier and its directors, officers, employees, successors and permitted assigns, from any and all liabilities, actions, damages, claims (including remediation cost recovery claims), losses, costs, orders, fines, penalties and expenses whatsoever (including all consulting and legal fees and expenses on a solicitor-client basis) arising from or in connection with to any

Contaminants brought onto the Lands by FEI or any Contaminants released from the Lands as a result of any negligent act or omission of FEI.

ARTICLE 12 - INDEMNIFICATION AND LIMITATION OF LIABILITY

- 12.1 Indemnification. Each Party hereby indemnifies and holds harmless the other Party and its employees, directors and officers from and against any and all adverse claims, losses, suits, actions, judgments, demands, debts, accounts, damages, costs, penalties and expenses (including all legal fees and disbursements) arising from or out of:
 - (a) the negligence or wilful misconduct of such Party, its employees, directors, officers or contractors; or
 - (b) the breach by such Party of any of the provisions contained in this Agreement.
- 12.2 Limitation of Liability. Each Party's liability to the other Party under this ARTICLE 12 shall be limited to the payment of direct damages. In no event shall either Party be responsible or liable to the other Party for any indirect, consequential, punitive, exemplary or incidental damages of the other Party or any third party arising out of or related to this Agreement even if the loss is directly attributable to the gross negligence or wilful misconduct of such Party, its employees, or contractors.
- 12.3 **Duty to Mitigate.** Each Party has a duty to mitigate the damages that would otherwise be recoverable from the other Party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages or amounts.

ARTICLE 13 - FORCE MAJEURE

- 13.1 Effect of Force Majeure. Neither Party will be in default of this Agreement by reason only of any failure in the performance of such Party's obligations pursuant to this Agreement if such failure arises without the fault or negligence of such Party and is caused by any event of Force Majeure (as defined below) that makes it commercially impracticable or unreasonable for such Party to perform its obligations under this Agreement and, in such event, the obligations of the Parties will be suspended to the extent necessary for the period of the Force Majeure condition, save and except neither Party will be relieved of or released from its obligations to make payments to the other Party as a result of an event of Force Majeure. For the purpose of this section, "Force Majeure" means any cause which is unavoidable or beyond the reasonable control of any Party to this Agreement and which, by the exercise of its reasonable efforts, such Party is unable to prevent or overcome, including, acts of God, war, riots, intervention by civil or military authority, strikes, lockouts, accidents, acts of civil or military authority, or orders of government or regulatory bodies having jurisdiction, or breakage or accident to machinery or lines of pipes, or freezing of wells or pipelines or the failure of gas supply, temporary or otherwise; provided however, the lack of funds or other financial cause shall not be an event of Force Majeure.
- 13.2 Notice of Force Majeure. The Party whose performance is prevented by an event of Force Majeure must provide notification to the other Party of the occurrence of such event as soon as reasonably possible.

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ARTICLE 14 - DISPUTE RESOLUTION

- 14.1 **Dispute Resolution.** The Parties will make a *bona fide* attempt to settle any dispute which may arise under, out of, in connection with or in relation to this Agreement by amicable negotiations between their respective senior representatives and will provide frank and timely disclosure to one another of all relevant facts and information to facilitate negotiations. If the Parties are unable to resolve the dispute within fifteen (15) days, or if the Parties agree to waive such discussions in respect of a particular issue, either Party may refer the dispute to a single arbitrator who is appointed and renders a decision in accordance with the then current "Domestic Commercial Arbitration Shorter Rules of Procedure" or similar rules of the British Columbia International Commercial Arbitration Centre ("BCICAC"). The decision of the arbitrator shall be final and binding. The costs and expenses of the arbitration, but not those incurred by the Parties, shall be shared equally, unless the arbitrator determines that a specific Party prevailed, and in such a case the non-prevailing Party shall pay all costs and expenses of the arbitration, but not those of the prevailing Party. The arbitration will take place in Vancouver, British Columbia and be conducted in English.
- 14.2 **Performance of Obligations.** The Parties shall continue to fulfill their respective obligations pursuant to this Agreement during the resolution of any dispute in accordance with this section.
- 14.3 Litigation. Nothing contained in this Article precludes either Party from:
 - (a) having a dispute determined by the BCUC if the dispute is within the jurisdiction of the BCUC; and
 - (b) having a dispute that has not been referred to arbitration be determined by a court of competent jurisdiction in the Province of British Columbia.

ARTICLE 15 - CONFIDENTIALITY

- 15.1 **Confidentiality.** All information or documentation (no matter in what form or media) received by a Party (the "**Receiving Party**") which has been specifically marked by other Party (the "**Disclosing Party**") as confidential (the "**Information**") shall be deemed to be confidential and proprietary to the Disclosing Party. Except as otherwise provided herein, the Receiving Party shall not directly or indirectly disclose the Information to any third party without the prior written consent of the Disclosing Party. Such consent is not required where the Receiving Party discloses such Confidential Information:
 - (a) to its directors, officers, employees, agents, accountants, lawyers, consultants or financial advisers or those of its affiliates; or
 - (b) to a third party that is another contractor or consultant retained by the Disclosing Party for the purposes of this MOU and the activities described herein;

who need to know such information for the proper performance of the Parties' respective obligations contemplated herein.

15.2 **Exception for Regulatory Submission.** Despite the foregoing, the Receiving Party may use the Information in connection with the preparation for and conduct of submissions to regulatory agencies, subject to requesting that the regulatory agency treat the Information as confidential in accordance with the agency's rules of procedure for confidential filings.

15.3 **Exclusions** The obligation of confidentiality set out above shall not apply to material, data or information which: (1) is known to the Receiving Party prior to its receipt thereof; (2) is generally available to the public; (3) has been obtained from a third party which has the right to disclose the same; and (4) is required by law to be disclosed, provided that where disclosure is required by law, the Receiving Party will, unless prohibited by law, forthwith notify the Disclosing Party to enable the Disclosing Party to mount a defense to such disclosure.

ARTICLE 16 - GENERAL

- 16.1 **Costs.** Except as otherwise set out in this Agreement, each Party will be responsible for the payment of its own costs related to performing its obligations under this Agreement.
- 16.2 **Publicity.** Neither Party shall initiate any media releases, interviews, or presentations to the media regarding the terms of this Agreement without the agreement and approval of the other Party, not to be unreasonably withheld or delayed.
- 16.3 **Compliance with Laws.** Each Party covenants, as a material provision of this Agreement, it will comply with all applicable codes, statutes, by-laws, regulations or other laws in force in British Columbia during the Term.
- 16.4 **Governing law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada. To the extent ARTICLE 14 (*Dispute Resolution*) is not applicable to a dispute between the Parties, the Parties hereby attorn to the jurisdiction of the courts of British Columbia and all courts competent to hear appeals therefrom.
- 16.5 Notice. Any invoices, payments, notices or other communication required to be given or made pursuant to the Agreement shall, unless otherwise expressly provided herein, shall be in writing and shall be personally delivered to or sent by facsimile to either Party at its address set forth below and deemed to have been received the next business day following delivery or facsimile transmittal:

If to: FortisBC Energy Inc. If to: REN Energy International Corp., 16705 Fraser Highway, Surrey, BC V4N 0E8 1100 - 1631 Dickson Avenue, Kelowna, Attention: Director, Natural Gas for BC V1Y 085 Transportation and Regional LNG Philip Viggiani, President Attention: Fax: 604 592 7444 Fax: With a copy to: With a copy to: renewablenaturalgas@fortisBC.com

- 16.6 **Schedules.** The schedules attached to this agreement are an integral Part of this Agreement and are hereby incorporated into this Agreement as a part thereof.
- 16.7 Amendments to be in writing. Except as set out in this Agreement, no amendment or variation of the Agreement shall be effective or binding upon the Parties unless such amendment or variation is set forth in writing and duly executed by the Parties, and accepted by the BCUC if required pursuant to the Utilities Commission Act.
- 16.8 **Waiver**. No Party is bound by any waiver of any provision of this Agreement unless such waiver is consented to in writing by that Party. No waiver of any provisions of this Agreement constitutes

a waiver of any other provision, nor does any waiver constitute a continuing waiver unless otherwise provided.

- 16.9 **Assignment.** Neither Party shall assign its rights and obligations under this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld, delayed or conditioned. Despite the foregoing, FEI may assign this Agreement, or parts thereof, to any of its affiliates.
- 16.10 **Enurement**. This Agreement enures to the benefit of and is binding on the Parties and their respective successors and permitted assigns.
- 16.11 **Survival.** The following provisions shall survive the termination or expiration of this Agreement: Section 5.8 [Indemnity], ARTICLE 11 [Environmental Release and Indemnity], ARTICLE 12 [Indemnification and Limitation of Liability], ARTICLE 14 [Dispute Resolution], ARTICLE 15 [Confidentiality], Section 16.4 [Governing Law] and Section 16.5 [Notice].
- 16.12 **Remedies Cumulative**. All rights and remedies of each Party under this Agreement are cumulative and may be exercised at any time and from time to time, independently and in combination.
- 16.13 **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination does not impair or affect the validity, legality or enforceability of any other provision of this Agreement.
- 16.14 **Further Assurances**. The Parties shall sign such further and other documents and do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable to give full effect to this Agreement.
- 16.15 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, covenants, representations, warranties or other provisions, whether express or implied, collateral, statutory or otherwise, relating to the subject matter of this Agreement except as provided in this Agreement.
- 16.16 Time is of the essence. Time is of the essence of this Agreement.
- 16.17 **Execution.** This Agreement may be executed in counterparts, each of which shall be deemed as an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission hereof shall be as effective as delivery of an originally executed counterpart hereof.
- 16.18 Interpretation. In and for the purpose of this Agreement:
 - (a) this "Agreement" means this agreement as the same may from time to time be modified, supplemented or amended in effect,
 - (b) the headings are for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement, and

(c) the singular of any term includes the plural, and vice versa, the use of any term is generally applicable to any gender and, where applicable, a corporation, the word "or" is not exclusive and the word "including" is not limiting (whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto).

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the day and year first above written.

FORTISBC ENERGY INC. by its authorized signatory(ies): **REN ENERGY INTERNATIONAL CORP.**

by its authorized signatory(ies):

-Docusioned by: Phil Viggiani

Roger Dall'Antonia President & CEO

Schedules attached:

Schedule A -- Biomethane Acceptance Specifications

Schedule B – Drawing of License Area

Schedule C – Description of Supplier Facilities and FEI Facilities

Schedule D – Commercial Terms

Schedule E – Consent Agreement

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The Biomethane must be free of contaminants, bacteria and pathogens, and not contain sand, dust, gums, oils and other impurities or other objectionable substances, except in such quantities as approved in writing by FEI and which are not injurious to pipelines or do not interfere with the transmission or commercial utilization of the gas, as determined by FEI. Despite the foregoing, the Biomethane may contain the following properties / contaminants within the limits shown in the table below:

PROPERTY/ CONTAMINANT	LIMITS
Pressure	not less than 7,135 kilopascals
Hydrogen Sulphide (H ₂ S)	Less than 6 mg/m ³
Water	Less than 65 mg/m ³ of water vapour
	No liquid water
Hydrocarbons	Not have a hydrocarbon dewpoint in excess of minus 9°C at the delivery pressure
	No hydrocarbons in liquid form
Sulfur	Less than 23 mg/m ³
Carbon Dioxide (CO ₂)	Less than 2% by volume
Oxygen (O ₂)	Less than 0.4% by volume
Temperature	54°C maximum
Heating value/calorific power	36.00 MJ/m ³ minimum (15 ^o C, 101.3kPa)
Siloxanes	Less than 1 mg/m ³
Carbon monoxide (CO)	Less than 2% by volume
Inert gases	Less than 4% volume
Ammonia (NH3)	3mg/m ³
Bacteria and pathogens	Impurity filter (0.3 to 5 microns)



- A. Supplier Facilities means those facilities necessary to generate and purify biogas and deliver the resulting Biomethane to the FEI Facilities, including but not limited to:
 - (a) gasification or pyrolysis equipment
 - (b) waste receiving and conditioning facilities;
 - (c) biogas purification/upgrading equipment;
 - (d) control systems,
 - (e) compression equipment to reach the minimum delivery pressure;
 - (f) a flare system; and
 - (g) piping between the purification/upgrading equipment and the FEI Facilities.
- **B. FEI Facilities** means those facilities necessary to connect to the Supplier Facilities, measure and monitor Biomethane quantity and quality and inject the accepted Biomethane into FEI's existing gas distribution system, including but not limited to:
 - (a) main extension and connection;
 - (b) metering;
 - (c) gas quality monitoring;
 - (d) pressure regulation;
 - (e) odorizing;
 - (f) safety shut offs;
 - (g) monitoring sensors and communications equipment capable of automatically re-starting injection of Biomethane into the distribution system once Biomethane has met the Specifications, if the Biomethane has temporarily failed to meet the Specifications;
 - (h) foundation; and
 - (i) fence (if required);
 - (j) outlet piping from fenced area to main line located adjacent to the Lands; and
 - (k) inlet shut-off valves located immediately adjacent to fenced area built by FEI.
- **C.** Interconnection Point The Interconnection Point between the Supplier Facilities and the FEI Facilities is within the location shown on the schematic diagram attached to this Schedule C.

Schedule C Description of Supplier Facilities and FEI Facilities



1. VOLUMETRIC LIMITS

- 1.1 The following quantity limitations, as established as a result of the system and capacity limitations of the Supplier Facilities and the limitations and thresholds established by the BCUC and applicable to FEI with respect to acceptance and injection of Biomethane into its natural gas distribution system, as measured by equipment forming part of the FEI Facilities (the "Volumetric Limits") apply to this Agreement:
 - (a) Maximum Yearly Quantity GJ per Contract Year, where "Contract Year" means the period from November 1st to October 31st of each year; provided that the Maximum Yearly Quantity will be prorated for part years;
 - (b) Minimum Yearly Quantity GJ per Contract Year.
 - (c) Minimum Monthly Quantity GJ.
 - (d) Maximum Houriy Flow Rate
 - (i) Summer term for the months of June, July and August GJ per hour;
 - (ii) At all other times per hour.

2. PRICE AND ADJUSTMENTS

2.1. **Purchase Price.** FEI shall pay the Supplier for the quantity of Biomethane accepted by FEI per month, commencing from the In-Service Date, at the following rate, subject to annual adjustment pursuant to section 2.2 (*Annual Adjustment*) of this Schedule, plus applicable taxes thereon:

per GJ (the "Base Rate").

- 2.2. Annual Adjustment. Subject to section 2.4 (*Maximum Rate*) of this Schedule, the Base Rate shall be adjusted annually on the first of November following each anniversary of the In-Service Date by the percentage increase, if any, in the Consumer Price Index (published by Statistics Canada for the Province of British Columbia, all items.
- 2.3. Application of Natural Gas Rate: Despite the rate set out in section 2.1 (*Purchase Price*) of this Schedule and subject to section 2.4 (*Maximum Rate*) of this Schedule, if the natural gas commodity prices identified as the Sumas Monthly Index Price contained in 'Inside FERC' published by Platts on a "per GJ" basis (the "Natural Gas Rate") exceeds the Base Rate in any month, FEI shall pay the Natural Gas Rate in lieu of the Base Rate for that month.
- 2.4. **Maximum Rate.** No adjustment will be made which results in the applicable rate payable by FEI exceeding the applicable of:
 - (a) then current BCUC approved maximum RNG supply purchase price; or
 - (b) the maximum RNG supply purchase price established by provincial regulations.

CONSENT AND ACKNOWLEDGEMENT

THIS AGREEMENT made as of ♦ (the "Effective Date")

BETWEEN:

FORTISBC ENERGY INC., 16705 Fraser Highway, Surrey, BC V4N 0E8 ("FEI")

AND:

ATCO Wood Products Ltd., 2073 Hepburn Drive, Fruitvale, BC VOG 1L0 (the "Landlord")

AND:

REN Energy International Corp., 1100 - 1631 Dickson Avenue, Kelowna, BC V1Y 0B5 (the "Tenant")

WHEREAS:

- A. FEI is a natural gas utility with a distribution system in British Columbia;
- B. The Landlord, as owner of the lands and premises located at 3507 Highway 3B, Fruitvale, British Columbia (the "Lands") leased the Lands to the Tenant pursuant to a lease agreement dated ♦, which expires ♦ (the "Lease Agreement").
- C. Pursuant to an agreement with the Tenant, FEI will install, operate, maintain and own certain facilities on the Lands (the "FEI Facilities") to inject the biomethane produced on the Lands into FEI's natural gas distribution system.
- D. The Landlord acknowledges FEI's ownership of the FEI Facilities and consents to the Tenant granting FEI access to and use of the Lands to install, operating and maintain the FEI Facilities pursuant to the terms and conditions of a Biomethane Purchase Agreement dated ♦, a copy of which is attached hereto as Schedule A (the "Biomethane Purchase Agreement").

NOW THEREFORE, in consideration of the mutual promises set out herein and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the parties agree as follows:

- 1.1 **Ownership of FEI Facilities.** The Landlord acknowledges and agrees the FEI Facilities are, and shall at all times remain, personalty and the property of FEI, and shall be freely alienable by FEI as its own property, despite the degree to which they may be annexed or affixed to the Lands and despite any rule of law or equity to the contrary. FEI shall be entitled to install signage and notices on the FEI Facilities identifying FEI's ownership.
- 1.2 **Consent to Use of Lands.** The Landlord hereby consents to the Tenant granting FEI access to and use of the Lands, all in accordance with the Biomethane Purchase Agreement.
- 1.3 **No Waiver or Modification.** The Tenant acknowledges and agrees this consent by the Landlord will not waive or modify in any respect the rights of the Landlord under the Lease Agreement or relieve the Tenant from observance or performance of any of the Tenant's covenants under the Lease Agreement.

- 1.4 **Continued Use of Lands by FEI.** The consent of the Landlord herein will not be construed as the approval by the Landlord of the terms of the Fueling Equipment Agreement, nor to permit FEI to remain in possession of the Lands or any portion thereof beyond the term of the Lease Agreement or if the lease is terminated for any reason, except as otherwise agreed in writing between the Landlord and FEI.
- 1.5 **Change of interest in Lands.** The Landlord and Tenant agree to provide FEI with at least thirty (30) days' notice of any sale or lease of the Lands or any loss or diminishment of the interest of the Tenant in and to the Lands, including any termination or expiry of the Lease Agreement.
- 1.6 Removal of FEI Facilities.
 - (a) In accordance with the provisions of the Biomethane Purchase Agreement, the Landlord acknowledges that upon the expiry or early termination of the Biomethane Purchase Agreement, including upon termination of the Lease Agreement, FEI will, within 90 days following the expiry date or termination date, as the case may be, remove the FEI Facilities from the Lands; provided that FEI will be obligated to remove only those portions of the FEI Facilities to surface level
 - (b) Despite the foregoing, the Tenant acknowledges and agrees that at the expiry or earlier termination of the Lease Agreement, should the Landlord require, the Tenant will forthwith remove any portions of the Fueling Equipment not removed by FEI and make good any damage caused to the Lands resulting from the installation or removal thereof, all at the Tenant's expense.
- 1.7 Confidentiality. The parties acknowledge and agree all information or documentation received by a party (the "Receiving Party") which has been specifically marked by other party (the "Disclosing Party") as confidential and the terms of this Agreement and the Biomethane Purchase Agreement (the "Information") shall be deemed to be confidential and proprietary to the Disclosing Party. Except as otherwise provided herein, the Receiving Party shall not directly or indirectly disclose the Information to any third party without the prior written consent of the Disclosing Party, except to a contractor or consultant retained by the Receiving Party for the purposes contemplated in this Agreement or the Biomethane Purchase Agreement and to the extent that such disclosure is necessary for the proper performance of such Agreements or such disclosure is required by law. Despite the foregoing, the Receiving Party may use the Information in the preparation of and submissions to regulatory agencies. The obligation of confidentiality set out above shall not apply to material, data or information which is known to either party prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same.
- 1.8 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart by electronic transmission shall be equally effective as delivery of a manually executed counterpart to this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

FORTISBC ENERGY INC., by its authorized signatory: ATCO Wood Products Ltd., by its authorized signatory:

REN Energy International Corp., by its authorized signatory:

SCHEDULE A

BIOMETHANE PURCHASE AGREEMENT [to be attached]

AMENDING AGREEMENT TO BIOMETHANE PURCHASE AGREEMENT

September 13th, 2019 (the "Effective Date") THIS AMENDING AGREEMENT is made as at

BETWEEN:

FORTISBC ENERGY INC. ("FEI")

AND:

REN ENERGY INTERNATIONAL CORP. ("REN")

WHEREAS:

- A. FEI and REN entered into a Biomethane Purchase Agreement, dated for reference March 19, 2019 (the "**Subject Agreement**");
- B. The parties wish to amend the Subject Agreement on the terms and conditions set out herein.

NOW THEREFORE, in consideration of FEI accepting a material increase in the Volumetric Limits of Biomethane to be produced by the Supplier for injection in FEI's natural gas distribution system, and for other good and valuable consideration, the parties hereto covenant and agree with each other as follows:

- 1. In this Amending Agreement, unless otherwise defined herein, capitalized words and expressions shall have the same meanings as are assigned to them in the Subject Agreement.
- 2. The following amendments are made to the Subject Agreement effective as at the Effective Date:
 - (a) Section 5.6 (*Excuse from Non-Performance for Maintenance*) is deleted in its entirety and replaced with the following section 5.6 (*Excuse for Non-Performance and Rejection of Supply*):
 - **"5.6 Excuse from Non-Performance and Rejection of Supply.**
 - (a) Neither Party will be considered to be in default under this Agreement where such Party's non-performance is as a result of undertaking maintenance or repair on their respective facilities provided that such Party is diligently undertaking such maintenance or repair to minimize its impacts and it being the intention of the Parties that maintenance or repair work will not exceed 5 days per month and 20 days per year in aggregate.
 - (b) Despite the obligation of FortisBC to accept Biomethane meeting the Specifications within the Volumetric Limits, if, at any time, FortisBC's natural gas distribution system has capacity limitations which temporarily prevent FortisBC from accepting such Biomethane, FortisBC may, for up to per year in aggregate, reject the Biomethane without any penalty or liability for doing so and without obligation to make any payment to the Supplier for such rejected Biomethane. During such times as FEI is unable to accommodate and accept the Biomethane, the Supplier shall be entitled to use, sell or otherwise dispose of such production in a

commercially and environmentally reasonable manner after consultation with FEI.

- (b) Schedule D (*Commercial Terms*) is hereby deleted and replaced with the revised Schedule D (*Commercial Terms*), attached hereto as Appendix 1.
- 3. All other terms and conditions of the Subject Agreement remain unchanged. The Subject Agreement, as amended by this Amending Agreement, will remain in full force and effect and, together with this Amending Agreement, will be read and interpreted as one agreement.
- 4. This Amending Agreement may be executed and delivered in any number of counterparts and in electronic format with the same effect as if all parties had originally signed and delivered the same document and all counterparts will be construed together to constitute one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Amending Agreement as of the Effective Date.

FORTISBC ENERGY INC.

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Signature Name: Title:

Roger Dall'Antonia President & CEO FortisBC

REN ENERGY INTERNATIONAL CORP. Signature President a CEO President a CEO REN ENERGY International Corp. Name: Title:

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APPENDIX 1

SCHEDULE D

Commercial Terms

1. VOLUMETRIC LIMITS

- 1.1 The following quantity limitations, as established as a result of the system and capacity limitations of the Supplier Facilities and the limitations and thresholds established by the BCUC and applicable to FEI with respect to acceptance and injection of Biomethane into its natural gas distribution system, as measured by equipment forming part of the FEI Facilities (the "Volumetric Limits") apply to this Agreement:
 - (a) **Maximum Yearly Quantity Maximum** per Contract Year, where "Contract Year" means the period from November 1st to October 31st of each year; provided that the Maximum Yearly Quantity will be prorated for part years;
 - (b) Minimum Yearly Quantity GJ per Contract Year.
 - (c) Minimum Monthly Quantity **Minimum** GJ.
 - (d) Maximum Hourly Flow Rate GJ per hour

2. PRICE AND ADJUSTMENTS

2.1. **Purchase Price.** FEI shall pay the Supplier for the quantity of Biomethane accepted by FEI per month, commencing from the In-Service Date, at the following rate, subject to annual adjustment pursuant to section 2.2 (*Annual Adjustment*) of this Schedule, plus applicable taxes thereon:

per GJ (the "Base Rate").

- 2.2. Annual Adjustment. Subject to section 2.4 (*Maximum Rate*) of this Schedule, the Base Rate shall be adjusted annually on the first of November following each anniversary of the In-Service Date by the percentage increase, if any, in the Consumer Price Index (published by Statistics Canada for the Province of British Columbia, all items.
- 2.3. Application of Natural Gas Rate: Despite the rate set out in section 2.1 (*Purchase Price*) of this Schedule and subject to section 2.4 (*Maximum Rate*) of this Schedule, if the natural gas commodity prices identified as the Sumas Monthly Index Price contained in 'Inside FERC' published by Platts on a "per GJ" basis (the "Natural Gas Rate") exceeds the Base Rate in any month, FEI shall pay the Natural Gas Rate in lieu of the Base Rate for that month.
- 2.4. **Maximum Rate.** No adjustment will be made which results in the applicable rate payable by FEI exceeding the applicable of:
 - (a) then current BCUC approved maximum RNG supply purchase price; or
 - (b) the maximum RNG supply purchase price established by provincial regulations.

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AMENDING AGREEMENT TO BIOMETHANE PURCHASE AGREEMENT (Amendment #2)

THIS AMENDING AGREEMENT is made as at January _____, 2020 (the "Effective Date")

BETWEEN:

FORTISBC ENERGY INC. ("FEI")

AND:

REN ENERGY INTERNATIONAL CORP. ("Supplier")

WHEREAS:

- A. FEI and REN entered into a Biomethane Purchase Agreement, dated for reference March 19, 2019, which agreement was amended by Amending Agreement #1 made as at September 13, 2019 (collectively, the "Subject Agreement");
- B. The parties wish to further amend the Subject Agreement on the terms and conditions set out this Amending Agreement.

NOW THEREFORE, the parties hereto covenant and agree with each other as follows:

- 1. In this Amending Agreement, unless otherwise defined herein, capitalized words and expressions shall have the same meanings as are assigned to them in the Subject Agreement.
- 2. The following amendments are made to the Subject Agreement effective as at the Effective Date:
 - (a) Schedule "D" (*Commercial Terms*) is hereby deleted and replaced in its entirety with the revised Schedule "D" (*Commercial Terms*), attached hereto as Appendix 1.
 - (b) Add the following new section 6.3 to the Supplier Agreement Contribution in Aid of Construction.

"6.3 Contribution in Aid of Construction. The Supplier hereby agrees to contribute towards the initial capital costs and the annual operating and maintenance costs associated with the extension of, upgrades to and the operation of FEI's natural gas distribution system to enable connectivity to the FEI Facilities, in the amount set out in Schedule D (*Commercial Terms*) (the "Supplier Contribution") below and in the following manner:

The Initial Capital Cost

- (a) The initial capital cost shall be a one-time monetary lump sum payment made to FEI directly, that is due 12 months after the In-Service Date or at another date as determined by FEI's in its sole discretion; and/or
- (b) at FEI's request and discretion, as a monetary payment made to FEI's designated contractors promptly upon receipt of notice from FEI as to the contractor name and payment details; and/or

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- (c) through undertaking some of the work for the FEI Facilities of a scope and manner agreed to by FEI, at its sole discretion and/or
- (d) in such other manner as required by FEI, in it's sole discretion.

Operations and Maintenance Costs

(e) The Supplier shall pay FEI for the operations and maintenance costs annualy. FEI shall send the Supplier an invoice for the actual costs incurred by FEI for the operation and maintenance of the FEI Facilties no later than December 31st of each calendar year and payment is due 30 days after reciept of the invoice by the Supplier.

For greateer clarity, the Supplier acknowledges that FEI has included the Supplier Contribution in its calculation of the Base Rate payable for the Biomethane."

- 3. All other terms and conditions of the Subject Agreement remain unchanged. The Subject Agreement, as amended by this Amending Agreement, will remain in full force and effect and, together with this Amending Agreement, will be read and interpreted as one agreement.
- 4. This Amending Agreement may be executed and delivered in any number of counterparts and in electronic format with the same effect as if all parties had originally signed and delivered the same document and all counterparts will be construed together to constitute one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Amending Agreement as of the Effective Date.

FORTISBC ENERGY INC.

Signature Name: Title:

Roger Dail'Antonia President & CEO FortisBC

REN ENERGY INTERNATIONAL CORP Signature Wiggiani , REN ENERGY Name: Title:

APPENDIX 1

SCHEDULE D Commercial Terms

1. VOLUMETRIC LIMITS

- 1.1 The following quantity limitations, as established as a result of the system and capacity limitations of the Supplier Facilities and the limitations and thresholds established by the BCUC and applicable to FEI with respect to acceptance and injection of Biomethane into its natural gas distribution system, as measured by equipment forming part of the FEI Facilities (the "Volumetric Limits") apply to this Agreement:
 - (a) Maximum Yearly Quantity Government GJ per Contract Year, where "Contract Year" means the period from November 1st to October 31st of each year; provided that the Maximum Yearly Quantity will be prorated for part years;
 - (b) Minimum Yearly Quantity GJ per Contract Year.
 - (c) Minimum Monthly Quantity GJ.
 - (d) Maximum Hourly Flow Rate GJ per hour

2. PRICE AND ADJUSTMENTS

2.1. **Purchase Price.** FEI shall pay the Supplier for the quantity of Biomethane accepted by FEI per month, commencing from the In-Service Date, at the following rate, subject to annual adjustment pursuant to section 2.2 (*Annual Adjustment*) of this Schedule, plus applicable taxes thereon:

per GJ (the "Base Rate").

- 2.2. Annual Adjustment. Subject to section 2.4 (*Maximum Rate*) of this Schedule, the Base Rate shall be adjusted annually on the first of November following each anniversary of the In-Service Date by the percentage increase, if any, in the Consumer Price Index (published by Statistics Canada for the Province of British Columbia, all items.
- 2.3. Application of Natural Gas Rate: Despite the rate set out in section 2.1 (*Purchase Price*) of this Schedule and subject to section 2.4 (*Maximum Rate*) of this Schedule, if the natural gas commodity prices identified as the Sumas Monthly Index Price contained in 'Inside FERC' published by Platts on a "per GJ" basis (the "Natural Gas Rate") exceeds the Base Rate in any month, FEI shall pay the Natural Gas Rate in lieu of the Base Rate for that month.
- 2.4. **Maximum Rate.** No adjustment will be made which results in the applicable rate payable by FEI exceeding the applicable of:
 - (a) then current BCUC approved maximum RNG supply purchase price; or

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(b) the maximum RNG supply purchase price established by provincial regulations.

3. CONTRIBUTION IN AID OF CONSTRUCTION - SUPPLIER CONTRIBUTION

3.1. The Parties agree the Supplier Contribution payable by the Supplier to FEI shall be calculated based FEI's actual capital cost, to be finalized by FEI no later than 12 months after the In-Service Date and subject to BCUC approval. An estimate of the Supplier Contribution amounts are as follows:

COST COMPONENT	DESCRIPTION AND PURPOSE	ESTIMATED AMOUNT*
Initial capital costs	Actual costs of FEI's Facilities	
Operations and maintenance costs	Annual costs for the operation and maintenance of FEI's Facilities	by CPI

*To be determined by FEI once it calculates actual capital costs incurred, no later than 12 months after the In-Service Date for the initial capital cost and by December 31 of each calendar year for the operations and maintenance costs.

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Appendix B FINANCIAL SCHEDULES

FILED CONFIDENTIALY

Appendix C DRAFT ORDER



Suite 410, 900 Howe Street Vancouver, BC Canada V6Z 2N3 bcuc.com P: 604.660.4700
TF: 1.800.663.1385
F: 604.660.1102

ORDER NUMBER

E-<mark>xx-xx</mark>

IN THE MATTER OF the Utilities Commission Act, RSBC 1996, Chapter 473

and

FortisBC Energy Inc. Filing of a Biomethane Purchase Agreement between FortisBC Energy Inc. and REN Energy International Corp.

BEFORE:

[Panel Chair] Commissioner Commissioner

on <mark>Date</mark>

ORDER

WHEREAS:

- A. On February 7, 2020, pursuant to section 71 of the Utilities Commission Act (UCA) and the Rules for Natural Gas Supply Contracts (Rules), FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of a Biomethane Purchase Agreement (BPA) dated March 19, 2019, between FEI and REN Energy International Corp. (REN), including amending agreements dated September 13, 2019 and January 17, 2020 (REN BPA) (Application). The REN BPA satisfies the criteria for biomethane acquisition as a prescribed undertaking under the Greenhouse Gas Reduction Regulation (GGRR);
- B. By Order G-130-06 dated October 27, 2006, the BCUC approved the Rules. The Rules are intended to facilitate the BCUC's review of natural gas energy supply contracts pursuant to section 71 of the UCA;
- C. On August 1, 2013, the Lieutenant Governor in Council of the Province of British Columbia (LGIC) issued Order in Council (OIC) 347/2013, giving direction to the BCUC to exempt biomethane suppliers selling biogas and biomethane to a public utility from certain sections of the UCA where the BCUC can review the supply contract under section 71 of the UCA;
- D. On August 20, 2013, the BCUC issued Order G-126-13, setting out the parameters for the entities that qualified for the exemption;
- E. On March 22, 2017, by OIC 161/2017, the LGIC approved an amendment to the GGRR, which among other things, indicated that the acquisition of renewable natural gas (RNG) is a prescribed undertaking subject to:
 - the public utility paying no more than \$30/GJ; and
 - the total volume of RNG purchased in a calendar year not exceeding 5% of the total volume of natural gas provided by a public utility to its non-bypass customers in 2015;

- F. Section 18(1) of the *Clean Energy Act* (CEA) describes a prescribed undertaking as "...a project, program, contract or expenditure that is in a class of projects, programs, contracts or expenditures prescribed for the purpose of reducing greenhouse gas emissions in British Columbia";
- G. Section 18(3) of the CEA states that "the commission must not exercise a power under the UCA in a way that would directly or indirectly prevent a public utility...from carrying out a prescribed undertaking";
- H. FEI requests that the redacted portions of the filing and certain appendices be kept confidential due to their commercially sensitive nature; and
- I. The BCUC has not reviewed the Application from a public interest perspective, as it is a prescribed undertaking.

NOW THEREFORE pursuant to section 71 of the UCA, the Rules, and OIC 161/2017, the BCUC accepts for filing the REN BPA. The BCUC will keep the redacted portions of the filing and certain appendices confidential as they contain commercially sensitive information.

DATED at the City of Vancouver, in the Province of British Columbia, this (XX) day of (Month Year).

BY ORDER

(X. X. last name) Commissioner