

SECOND AMENDED AND RESTATED WELL INSTALLATION AGREEMENT

This Second Amended and Restated Well Installation Agreement (the "Well Installation Agreement") is made and dated as of July 1, 2010, among the City of San Diego, California, a municipal corporation of the State of California (the "City"), NEO San Diego LLC, a Delaware limited liability company (the "Gas Producer"), MM San Diego LLC, a Delaware limited liability company (the "Cogenerator"), and Miramar Energy LLC, a Delaware limited liability company (the "Phase III Cogeneration Facility Contractor"), collectively referred to as the "Parties".

RECITALS

A. The Parties and/or a combination thereof are parties to the following agreements which are incorporated herein by reference and collectively called the "Agreements":

i) Amended and Restated Landfill Gas Lease and Operating Agreement dated as of July 1, 2010 ("Gas Agreement");

ii) Amended and Restated Privatized Cogeneration Facility and Energy Sales Agreement and a related Site Lease, each dated as of February 1, 1998, as amended, to serve the energy requirements of City's Biosolids Treatment Facility (the "Cogeneration Agreement");

iii) Amended and Restated North City Privatized Cogeneration Facility and Energy Sales Agreement and a related Site Lease, each dated as of February 1, 1998, as amended, to serve the energy requirements of City's North City Water Reclamation Plant ("North City Cogeneration Agreement");

iv) Site Lease between the City and the Phase III Cogeneration Facility Contractor dated as of July 1, 2010 (the "Phase III Site Lease");

v) Amended and Restated Well Installation Agreement dated February 11, 1998 ("Original Well Installation Agreement"); and

vi) Settlement of Claims over Fees for Offsite Energy Sales and Amendment of Well Installation Agreement dated August 13, 2004 ("Settlement Agreement").

B. Pursuant to the above-referenced Agreements, the City granted to Gas Producer the right, among others, to extract, use, convert, process and sell Landfill Gas, as defined in the Gas Agreement on and from the Miramar Landfill, as defined in the Gas Agreement, and provided for the extension and operation of the Landfill Gas System in connection with the performance of such Agreements.

C. The purpose of this Well Installation Agreement is to provide for the further installation of City Additions to Landfill Gas System, as defined by the Gas Agreement, at the Miramar Landfill to be undertaken by Gas Producer on behalf of the City, to provide for the potential financing by Gas Producer of such City Additions to Landfill Gas System, and to amend, restate and supersede the Original Well Installation Agreement.

ACCORDINGLY, the City, Gas Producer, Cogenerator, and Phase III Cogeneration Facility Contractor acknowledge and agree to amend and restate the Original Well Installation Agreement as follows:

1. The recitals set forth above are incorporated herein by reference and all capitalized terms not specifically defined herein shall have the meanings set forth in the Gas Agreement.

2. The Parties acknowledge that the Initial Wells, as defined in the Original Well Installation Agreement, have been completed and any obligations associated therewith have been discharged, satisfied and performed by all Parties. The Parties also acknowledge that all conditions and provisions of the Settlement Agreement have been performed and/or satisfied.

3. Pursuant to Sections 8.1(I) and 10.1 of the Gas Agreement, the City hereby requests and authorizes the Gas Producer to install, from time to time, certain City Additions to Landfill Gas System. The City agrees to pay to the Gas Producer all reasonable costs incurred by the Gas Producer and approved in advance by the City for the installation of any such City Addition to Landfill Gas System, provided, however, that the Gas Producer shall have no obligation to incur costs of installation which exceed \$2,500,000 in the aggregate in July 2010 dollars (the "Cost Ceiling"). For the purposes of this Agreement, "reasonable costs incurred by the Gas Producer" include all costs incurred in connection with the installation of any such City Addition to Landfill Gas System, as well as costs incurred by the Gas Producer or its Affiliates in arranging for and/or obtaining financing of any such costs, and any direct or indirect costs of the Gas Producer or its Affiliates, including overhead, or any third party costs associated with any such design and installation ("City Directed Costs"). All such City Directed Costs shall be clearly delineated in a written proposal from the Gas Producer to be based on the City's request and provided to the City for its advance evaluation as stipulated in Section 8.1(I) of the Gas Agreement. The Gas Producer shall not incur any City Directed Costs nor shall it proceed with the installation of any City Additions to Landfill Gas System pursuant to this Agreement prior to the issuance by the City of a Notice to Proceed with respect to such installation. The Notice to Proceed shall describe, in detail, such City Additions to Landfill Gas System to be installed, including the Gas Producer's design as accepted by the City and the bid for such installation.

4. The Gas Producer, the Cogenerator or the Phase III Cogeneration Facility Contractor (any, the "Lending Party"), in its sole discretion, may consent to a request by the City to finance the City Directed Costs of the City Additions to Landfill Gas System incurred hereunder. If the Lending Party consents to such financing, the Lending Party agrees to finance the City Directed Costs at an interest rate equal to ten percent (10%) payable over a term established at the time of such financing through the mutual agreement of the Lending Party and City. Interest on the City Directed Costs financed by the Lending Party shall accrue from the date of commencement of the installation for such City Addition to Landfill Gas System. Any amounts financed by the Lending Party shall be evidenced in a written promissory note that includes the amount financed, the interest rate, and term (any, a "Promissory Note") secured by a lien on the City Installed Collection System, including any City Additions to Landfill Gas System. Except as provided in Section 5 hereof, if the Lending Party provides such financing, the Lending Party agrees that its primary source of repayment of the Promissory Note shall be

the eight percent (8%) royalty otherwise payable by the Cogenerator to the City pursuant to Section 9.4(G) of the Cogeneration Agreement or by the Phase III Cogeneration Facility Contractor to the City pursuant to Article IV of the Phase III Site Lease (the "Royalty"). The Gas Producer, the Cogenerator and the Phase III Cogeneration Facility Contractor, as applicable, shall enter into the necessary inter-company agreements in order to effectuate such a repayment, and the City hereby consents to the Cogenerator's or the Phase III Cogeneration Facility Contractor's payment of the Royalty directly to the Lending Party for such repayment. Payments on the Promissory Note, as they become due, shall be credited first against accrued interest and then against the principal balance of the Promissory Note. Notwithstanding the foregoing, should for any consecutive twelve (12) month period the accumulated Royalty payments fail to equal or exceed the principal and interest amounts owed to the Lending Party under the Promissory Note for the same twelve (12) month period, the City agrees to pay any shortfall to the Lending Party from the enterprise fund of the Environmental Services Department and the enterprise fund of the Public Utilities Department, within thirty (30) days of receipt of an invoice from the Lending Party. In the event that the Lending Party provides financing, the City shall have the right to prepay any amounts financed, as evidenced by the Promissory Note, at any time in whole or in part without prepayment or other penalty. The Lending Party, and the Parties providing the Royalties for payment shall, for the term of any Promissory Note, submit monthly and annual accounting relating to such financing provided by the Lending Party and the Parties providing the Royalties for payment, including monthly and annual beginning and ending balances of principal and interest payments due from the City and the application of any Royalties to such balances. The City shall pay any remaining principal and interest payments due to the Lending Party at the end of the Term from the enterprise fund of the Environmental Services Department and the enterprise fund of the Public Utilities Department within thirty (30) days of receipt of an invoice from the Lending Party.

5. In the event that the City issues a Notice to Proceed to the Gas Producer for the installation of an Addition to the Landfill Gas System which result in aggregate expenditures by Gas Producer throughout the term of this Agreement in excess of the Cost Ceiling, the Gas Producer shall not proceed with such City Addition to Landfill Gas System unless and until the City has identified and committed, and the Gas Producer has approved, the source or sources of payment of City Directed Costs related to the amount in excess of the Cost Ceiling. Such sources shall require prior approval by the Gas Producer in its commercially reasonable discretion.

6. The Gas Producer shall perform the construction and installation of any City Addition to Landfill Gas System in accordance with the Gas Agreement.

7. The term of this Well Installation Agreement shall be concurrent with the Term of the Amendment to Amended and Restated North City Cogeneration Facility Site Lease Agreement and the Phase III Cogeneration Facility Site Lease Agreement.

8. This Well Installation Agreement may only be modified, amended or supplemented by an instrument in writing executed by all of the Parties.

9. Well Installation Agreement Effectiveness. The Well Installation Agreement shall be effective on the Effective Date; however, the parties shall not be obligated to

perform their obligations under the Well Installation Agreement until the Phase III Commencement Date, as further described in Section 3.3.1(B) of the Gas Agreement, has occurred. No party shall be liable to the other parties for the termination of the Well Installation Agreement pursuant to this subsection, and each of the parties shall bear its respective costs and expenses incurred in seeking to satisfy the Phase III Commencement Date Conditions.

10. In the event of any action at law or in equity between the Parties arising from or in connection with this Well Installation Agreement, the prevailing party shall be entitled, in addition to such other relief as may be granted, its reasonable attorneys' fees, expert witness fees, litigation or arbitration related expenses, and court costs in such litigation or proceeding, to be fixed by the court, and the amount of such costs and expenses shall be added to the amount of such judgment. In the event any dispute is arbitrated, fees and costs referred to in this section shall be awarded in the discretion of the arbitrator(s). For purposes of this section, the term "prevailing party" means the net winner of the dispute, taking into account the claims pursued, the claims on which the pursuing party was successful, the amount of money sought, the amount of money awarded, and offsets or counterclaims pursued (successfully or unsuccessfully) by the other party. If a written settlement offer is rejected and the judgment or award finally obtained is equal to or more favorable to the offeror than an offer made in writing to settle, the offeror is deemed to be the successful party from the date of the offer forward.

11. No delay or omission to exercise any right or power shall be construed to be a waiver of any default or acquiescence therein or a waiver of any right or power, and every such right and power may be exercised from time to time and as often as may be deemed expedient. Either Party's acceptance of any performance due hereunder that does not comply strictly with the terms hereof shall not be deemed to be waiver of any right of such Party to strict performance by the other Party. Acceptance of past due amounts or partial payments shall not constitute a waiver of full and timely payment of any sums due hereunder.

12. If any term or provision of this Well Installation Agreement should be held invalid or unenforceable, the Parties to this Well Installation Agreement shall endeavor to replace such invalid terms or provisions by valid terms and provisions that correspond to the best of their original economic and general intentions. The invalidity or unenforceability of any term or provision hereof shall not be deemed to render the other terms or provisions hereof invalid or unenforceable.

13. This Well Installation Agreement is expressly acknowledged to constitute the entire agreement between the Parties relating to the subject matter hereof and to supersede all prior written and oral agreements and understandings and all contemporaneous oral representations or warranties in connection therewith.

14. This Well Installation Agreement and all of the terms, conditions and limitations contained herein shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns; provided, however, that except as otherwise provided in the Gas Agreement or the Cogeneration Agreement, as applicable, neither party hereto shall assign this Well Installation Agreement nor any interest herein

15. The terms and provisions are not to be construed more liberally in favor of, nor more strictly against, either Party. To the extent the mutual covenants of the Parties under this Well Installation Agreement create obligations that extend beyond the termination or expiration of this Well Installation Agreement, the applicable provisions of this Well Installation Agreement shall be deemed to survive such termination or expiration for the limited purpose of enforcing such covenants and obligations in accordance with the terms of this Well Installation Agreement. All schedules and exhibits attached hereto are incorporated herein by this reference.

16. The Parties shall perform all such acts (including without limitation executing and delivering instruments and documents) as reasonably may be necessary to fully effectuate the intent and each and all of the purposes of this Well Installation Agreement, including consents to any assignments, transfers, subleases, or easements permitted hereunder.

17. Nothing contained in this Well Installation Agreement shall be construed to create any association, trust, partnership, or joint venture or impose a trust or partnership, duty, obligation, or liability or an agency relationship on, or with regard to, either Party. Neither Party hereto shall have the right to bind or obligate the other in any way or manner unless otherwise provided for herein.

18. This Well Installation Agreement is intended to be solely for the benefit of the Parties hereto and their successors and permitted assignees and is not intended to and shall not confer any rights or benefits on any other third party not a signatory hereto.

19. Neither party hereunder shall be liable to the other party for any special, indirect, loss of use, lost profits, incidental or consequential damages arising under or out of this Well Installation Agreement or the transactions contemplated herein.

IN WITNESS WHEREOF, the Parties have caused this Well Installation Agreement to be executed and delivered in triplicate by their duly represented officers or representatives as of the date first above written.

NEO SAN DIEGO LLC

CITY OF SAN DIEGO, CALIFORNIA

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

MM San Diego LLC

By: _____
Name: _____
Title: _____
Date: _____

I HEREBY APPROVE the form and legality of the foregoing Well Installation Agreement on this _____ day of _____, 2010.

JAN I. GOLDSMITH, City Attorney

By: _____
Deputy City Attorney

SITE LEASE GUARANTY AGREEMENT

from

FORTISTAR METHANE 3 LLC

to

THE CITY OF SAN DIEGO, CALIFORNIA

Dated

as of July 1, 2010

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GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT ("Guaranty") is made and dated as of July 1, 2010, between Fortistar Methane 3 LLC, a Delaware limited liability company (together with any permitted successors and assigns hereunder, the "Guarantor"), and the City of San Diego, California, (the "City").

RECITALS

A. The City and Miramar Energy LLC (the "Company"), a Delaware limited liability company, have entered into that certain Phase III Cogeneration Facility Site Lease Agreement, dated as of July 1, 2010 (the "Phase III Site Lease"), whereby the Company has agreed to finance, design, construct, own, operate and maintain cogeneration facilities and lease certain property, all as more particularly described therein.

B. The Company is a direct or indirect subsidiary of the Guarantor.

C. The City will enter into the Phase III Site Lease only if the Guarantor guarantees the performance by the Company of all of the Company's responsibilities and obligations under the Phase III Site Lease.

In order to induce the execution and delivery of the Phase III Site Lease by the City and in consideration thereof, the Guarantor agrees as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS. For the purposes of this Guaranty, the following words and terms shall have the respective meanings set forth as follows. Any capitalized word or term used but not defined herein is used as defined in the Phase III Site Lease.

"Obligations" means the amounts payable by the Company pursuant to the terms of the Phase III Site Lease.

SECTION 1.2. INTERPRETATION. In this Guaranty, unless the context otherwise requires:

(A) References Hereto. The terms "hereby", "hereof", "herein", "hereunder" and any similar terms refer to this Guaranty, and the term "hereafter" means after, and the term "heretofore" means before, the date of execution and delivery of this Guaranty.

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

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

(D) Headings. The table of contents and any headings preceding the text of the articles, sections and subsections of this Guaranty shall be solely for convenience of reference and shall not constitute a part of this Guaranty, nor shall they affect its meaning, construction or effect.

(E) Entire Agreement; Authority. This Guaranty constitutes the entire agreement between the parties hereto with respect to the transactions contemplated by this Guaranty. Nothing in this Guaranty is intended to confer on any person other than the Guarantor, the City and their permitted successors and assigns hereunder any rights or remedies under or by reason of this Guaranty.

(F) Counterparts. This Guaranty may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Guaranty.

(G) Applicable Law. This Guaranty shall be governed by and construed in accordance with the applicable laws of the State of California.

(H) Severability. If any clause, provision, subsection, section or article of this Guaranty shall be ruled invalid by any court of competent jurisdiction, the invalidity of any such clause, provisions, subsection, section or article shall not affect any of the remaining provisions hereof, and this Guaranty) shall be construed and enforced as if such invalid portion did not exist provided that such construction and enforcement shall not increase the Guarantor's liability beyond that expressly set forth herein.

(I) Approvals. All approvals, consents and acceptances required to be given or made by any party hereto shall be at the sole discretion of the party whose approval, consent or acceptance is required.

(J) Payments. All payments required to be made by the Guarantor hereunder shall be made in lawful money of the United States of America.

ARTICLE II REPRESENTATIONS AND WARRANTIES OF THE GUARANTOR

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE GUARANTOR. The Guarantor hereby represents and warrants that:

(A) Existence and Powers. The Guarantor is duly organized and validly existing as a limited liability company under the laws of Delaware, with full legal right, power and authority to enter into and perform its obligations under this Guaranty.

(B) Due Authorization and Binding Obligation. The Guarantor has duly authorized the execution and delivery of this Guaranty, and this Guaranty has been

duly executed and delivered by the Guarantor and constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium or by general equity principals of reorganization and other similar laws affecting creditors' rights generally and general principals of equity.

(C) No Conflict. Neither the execution or delivery by the Guarantor of this Guaranty nor the performance by the Guarantor of its obligations hereunder: (a) to the Guarantor's knowledge conflicts with, violates or results in a breach of any law or governmental regulation applicable to the Guarantor, (b) conflicts with, violates or results in a material breach of any term or condition of the Guarantor's corporate charter or by-laws or any judgment, decree, agreement or instrument to which the Guarantor is a party or by which the Guarantor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument, or (c) to the Guarantor's knowledge will result in the creation or imposition of any material encumbrance of any nature whatsoever upon any of the properties or assets of the Guarantor except as permitted hereby or by any Transaction Agreement.

(D) No Governmental Approval Required. No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required of the Guarantor for the valid execution and delivery by the Guarantor of this Guaranty, except such as shall have been duly obtained or made.

(E) No Litigation. There is no action, suit or other proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the Guarantor's knowledge, threatened against the Guarantor which has a likelihood of an unfavorable decision, ruling or finding that would materially and adversely affect the validity or enforceability of this Guaranty.

(F) No Legal Prohibition. The Guarantor has no knowledge of any Applicable Law in effect on the date as of which this representation is being made which would prohibit the performance by the Guarantor of this Guaranty and the transactions contemplated by this Guaranty.

(G) Consent to Agreements. The Guarantor is fully aware of the terms and conditions of the Phase III Site Lease.

(H) Consideration. This Guaranty is made in furtherance of the purposes for which the Guarantor has been organized, and the assumption by the Guarantor of its obligations hereunder will result in a material benefit to the Guarantor.

ARTICLE III GENERAL COVENANTS

SECTION 3.1. GUARANTY TO THE CITY. The Guarantor hereby absolutely, presently, irrevocably and unconditionally guarantees to the City for the benefit of the City (1) the full and prompt payment when due of each and all of the payments required to be credited or made by the Company under the Phase III Site Lease (including all

amendments and supplements thereto) to, or for the account of, the City, when the same shall become due and payable pursuant to this Guaranty, and (2) the full and prompt performance and observance of each and all of the Obligations. Notwithstanding the unconditional nature of the Guarantor's obligations as set forth herein, the Guarantor shall have the right to assert the defenses provided in Section 3.4 hereof against claims made under this Guaranty.

SECTION 3.2. RIGHT OF CITY TO PROCEED AGAINST GUARANTOR.

This Guaranty shall constitute a guaranty of payment and of performance and not of collection, and the Guarantor specifically agrees that in the event of a failure by the Company to pay or perform any Obligation guaranteed hereunder, the City shall have the right to proceed first and directly against the Guarantor under this Guaranty and without proceeding against the Company or exhausting any other remedies against the Company which the City may have. Without limiting the foregoing, the Guarantor agrees that it shall not be necessary, and that the Guarantor shall not be entitled to require, as a condition of enforcing the liability of the Guarantor hereunder, that the City: (1) file suit or proceed to obtain a personal judgment against the Company or any other person that may be liable for the Obligations or any part of the Obligations, (2) make any other effort to obtain payment or performance of the Obligations from the Company other than providing the Company with any notice of such payment or performance as may be required by the terms of the Phase III Site Lease or required to be given to the Company under Applicable Law, (3) foreclose against or seek to realize upon any security for the Obligations, or (4) exercise any other right or remedy to which the City is or may be entitled in connection with the Obligations or any security therefor or any other guarantee thereof, except to the extent that any such exercise of such other right or remedy may be a condition to the Obligations of the Company or to the enforcement of remedies under the Phase III Site Lease. Upon any unexcused failure by the Company in the payment or performance of any Obligation and the giving of such notice or demand, if any, to the Company and Guarantor as may be required in connection with such Obligation and this Guaranty, the liability of the Guarantor shall be effective and shall immediately be paid or performed. Notwithstanding the City's right to proceed directly against the Guarantor, the City (or any successor) shall not be entitled to more than a single full performance of the obligations in regard to any breach or non-performance thereof.

SECTION 3.3. GUARANTY ABSOLUTE AND UNCONDITIONAL.

The obligations of the Guarantor hereunder are absolute, present, irrevocable and unconditional and shall remain in full force and effect until the Company shall have fully discharged the Obligations in accordance with their respective terms, and except as provided in Section 3.4 hereof, shall not be subject to any counterclaim, set-off, deduction or defense (other than full and strict compliance with, or release, discharge or satisfaction of, such Obligations) based on any claim that the Guarantor may have against the Company, the City or any other person. Without limiting the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged or in any way modified by reason of any of the following (whether with or without notice to, knowledge by or further consent of the Guarantor):

(A) the extension or renewal of this Guaranty or the Phase III Site Lease up to the specified Term;

(B) any exercise or failure, omission or delay by the City in the exercise of any right, power or remedy conferred on the City with respect to this Guaranty or the Phase III Site Lease except to the extent such failure, omission or delay gives rise to an applicable statute of limitations defense with respect to a specific claim;

(C) any permitted transfer or assignment of rights or obligations under the Phase III Site Lease or under any other Transaction Agreement by any party thereto, or any permitted assignment, conveyance or other transfer of any of their respective interests in the Phase III Cogeneration Facility or in, to or under any of the Transaction Agreements;

(D) any permitted assignment for the purpose of creating a security interest or mortgage of all or any part of the respective interests of the City or any other person in any Transaction Agreement or in the Phase III Cogeneration Facility;

(E) any renewal, amendment, change or modification in respect of any of the Obligations or terms or conditions of any Transaction Agreement;

(F) any failure of title with respect to all or any part of the respective interests of any person in the Phase III Cogeneration Facility Site or the Phase III Cogeneration Facility;

(G) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, moratorium, arrangement, composition with creditors or readjustment of, or other similar proceedings against the Company or the Guarantor, or any of the property of either of them, or any allegation or contest of the validity of this Guaranty or any other Transaction Agreement in any such proceeding (it is specifically understood, consented and agreed to that, to the extent permitted by law, this Guaranty shall remain and continue in full force and effect and shall be enforceable against the Guarantor to the same extent and with the same force and effect as if any such proceeding had not been instituted and as if no rejection, stay, termination, assumption or modification has occurred as a result thereof, it being the intent and purpose of this Guaranty that the Guarantor shall and does hereby waive all rights and benefits which might accrue to it by reason of any such proceeding);

(H) except as permitted by Sections 4.1 or 4.2 hereof, any sale or other transfer by the Guarantor or any Affiliate of any of the capital stock or other interest of the Guarantor or any Affiliate in the Company now or hereafter owned, directly or indirectly, by the Guarantor or any Affiliate, or any change in composition of the interests in the Company;

(I) any failure on the part of the Company for any reason to perform or comply with any agreement with the Guarantor;

(J) the failure on the part of the City to provide any notice to the Guarantor which is not required to be given to the Guarantor pursuant to this Guaranty and to the Company as a condition to the enforcement of Obligations pursuant to the Phase III Site Lease;

(K) subject to Section 3.4 below, any failure of any party to the Transaction Agreements to mitigate damages resulting from any default by the Company or the Guarantor under any Transaction Agreement;

(L) the merger or consolidation of any party to the Transaction Agreements into or with any other person, or any sale, lease, transfer, abandonment or other disposition of any or all of the property of any of the foregoing to any person;

(M) any legal disability or incapacity of any party to the Transaction Agreements; or

(N) the fact that entering into any Transaction Agreement by the Company or the Guarantor was invalid or in excess of the powers of such party.

Should any money due or owing under this Guaranty not be recoverable from the Guarantor due to any of the matters specified in subparagraphs (A) through (N) above, then, in any such case, such money, together with all additional sums due hereunder, shall nevertheless be recoverable from the Guarantor as though the Guarantor were principal obligor in place of the Company pursuant to the terms of the Phase III Site Lease and not merely a guarantor and shall be paid by the Guarantor forthwith subject to the terms of this Guaranty. Notwithstanding anything to the contrary expressed in this Guaranty, nothing in this Guaranty shall be deemed to amend, modify, clarify, expand or reduce the Company's rights, benefits, duties or obligations under the Phase III Site Lease. To the extent that any of the matters specified in subparagraphs (A) through (F) and (H) through (N) would provide a defense to, release, discharge or otherwise affect the Company's Obligations, the Guarantor's obligations under this Guaranty shall be treated the same.

SECTION 3.4. DEFENSES, SET-OFFS AND COUNTERCLAIMS.

Notwithstanding any provision contained herein to the contrary, the Guarantor shall be entitled to exercise or assert any and all legal or equitable rights or defenses which the Company may have under the Phase III Site Lease, any Transaction Agreements or under Applicable Law (other than bankruptcy or insolvency of the Company and other than any defense which the Company has expressly waived in the Phase III Site Lease or the Guarantor has expressly waived in Section 3.5 hereof or elsewhere hereunder), and the obligations of the Guarantor hereunder are subject to such counterclaims, set-offs or deductions which the Company is permitted to assert pursuant to the Phase III Site Lease if any.

SECTION 3.5. WAIVERS BY THE GUARANTOR. The Guarantor hereby unconditionally and irrevocably waives:

(A) notice from the City of its acceptance of this Guaranty;

(B) notice of any of the events referred to in Section 3.3 hereof except to the extent that notice is required to be given as a condition to the enforcement of Obligations;

(C) to the fullest extent lawfully possible, all notices which may be required by statute, rule of law or otherwise to preserve intact any rights against the Guarantor, except any notice to the Company required pursuant to the Phase III Site Lease or Applicable Law as a condition to the performance of any Obligation;

(D) to the fullest extent lawfully possible, any statute of limitations defense based on a statute of limitations period which may be applicable to guarantors (or parties in similar relationships) which would be shorter than the applicable statute of limitations period for the underlying claim;

(E) any right to require a proceeding first against the Company;

(F) any right to require a proceeding first against any person or the security provided by or under any Transaction Agreement except to the extent such Transaction Agreement specifically requires a proceeding first against any person (except the Company) or security;

(G) any requirement that the Company be joined as a party to any proceeding for the enforcement of any term of any Transaction Agreement;

(H) the requirement of, or the notice of, the filing of claims by the City in the event of the receivership or bankruptcy of the Company; and

(I) all demands upon the Company or any other person and all other formalities the omission of any of which, or delay in performance of which, might, but for the provisions of this Section 3.5, by rule of law or otherwise, constitute grounds for relieving or discharging the Guarantor in whole or in part from its absolute, present, irrevocable, unconditional and continuing obligations hereunder.

SECTION 3.6. PAYMENT OF COSTS AND EXPENSES. The Guarantor agrees to pay the City on demand all reasonable costs and expenses, legal or otherwise (including counsel fees), incurred by or on behalf of the City in successfully enforcing by Legal Proceeding observance of the covenants, agreements and obligations contained in this Guaranty against the Guarantor, other than the costs and expenses that the City incurs in performing any of its obligations under the Phase III Site Lease, or other applicable Transaction Agreement where such obligations are a condition to performance by the Company of its Obligations.

SECTION 3.7. SUBORDINATION OF RIGHTS. The Guarantor agrees that any right of subrogation or contribution which it may have against the Company as a result of any payment or performance hereunder is hereby fully subordinated to the rights of the City hereunder and under the Transaction Agreements and that the Guarantor shall not recover or seek to recover any payment made by it hereunder from the Company until the

Company and the Guarantor shall have fully and satisfactorily paid or performed and discharged the Obligations giving rise to a claim under this Guaranty.

SECTION 3.8. SEPARATE OBLIGATIONS; REINSTATEMENT. The obligations of the Guarantor to make any payment or to perform and discharge any other duties, agreements, covenants, undertakings or obligations hereunder shall: (1) to the extent permitted by Applicable Law, constitute separate and independent obligations of the Guarantor from its other obligations under this Guaranty, (2) give rise to separate and independent causes of action against the Guarantor and (3) apply irrespective of any indulgence granted from time to time by the City. The Guarantor agrees that this Guaranty shall be automatically reinstated if and to the extent that for any reason any payment or performance by or on behalf of the Company is rescinded or must be otherwise restored by the City, whether as a result of any proceedings in bankruptcy, reorganization or similar proceeding, unless such rescission or restoration is pursuant to the terms of the Phase III Site Lease, or any applicable Transaction Agreement or the Company's enforcement of such terms under Applicable Law.

SECTION 3.9. TERM. This Guaranty shall remain in full force and effect from the date of execution and delivery hereof until all of the Obligations of the Company have been fully paid and performed.

ARTICLE IV GENERAL COVENANTS

SECTION 4.1. MAINTENANCE OF CORPORATE EXISTENCE.

(A) Consolidation; Merger; Sale or Transfer. The Guarantor covenants that during the term of this Guaranty it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it unless the successor is the Guarantor; provided, however, that the Guarantor may consolidate with or merge into another entity, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer to another entity all or substantially all of its assets as an entirety and thereafter dissolve if the successor entity (if other than the Guarantor) (a) assumes in writing all the obligations of the Guarantor hereunder and, if required by law, is duly qualified to do business in the State of California, and (b) delivers to the City an opinion of counsel to the effect that its obligations under this Guaranty are legal, valid, binding and enforceable subject to applicable bankruptcy and similar insolvency or moratorium laws.

(B) Continuance of Obligations. If a consolidation, merger or sale or other transfer is made as permitted by this Section 4.1, the provisions of this Section 4.1 shall continue in full force and effect and no further consolidation, merger or sale or other transfer shall be made except in compliance with the provisions of this Section 4.1. No such consolidation, merger or sale or other transfer shall have the effect of releasing the initial Guarantor from its liability hereunder unless a successor entity has assumed responsibility for this Guaranty as provided in this Section 4.1.

SECTION 4.2. ASSIGNMENT. Without the prior written consent of the City, this Guaranty may not be assigned by the Guarantor, except (a) pursuant to Section 4.1 hereof, and (b) the Guarantor may assign this Guaranty to any entity (the “Assuming Entity”) that (i) is no less creditworthy than the Guarantor, subject to the reasonable approval of the City, and (ii) expressly assumes all obligations of the Guarantor hereunder in a writing delivered to the City at its address specified for notices herein. Any assignment under Section 4.2(b) is subject to the prior written approval of the City, which approval may be withheld in the City’s sole discretion, not to be unreasonably withheld or delayed. Upon any such assignment and assumption the Guarantor shall have no further liability hereunder from and after the date of the assignment, and all liability hereunder from and after that date shall thereafter be the responsibility of the Assuming Entity.

SECTION 4.3. QUALIFICATION IN CALIFORNIA. The Guarantor agrees that, so long as this Guaranty is in effect, if required by law, the Guarantor will be duly qualified to do business in the State of California.

SECTION 4.4. CONSENT TO JURISDICTION. The Guarantor irrevocably: (1) agrees that any Legal Proceeding arising out of this Guaranty shall be brought in the State or federal courts in San Diego County, California having appropriate jurisdiction; (2) consents to the jurisdiction of such court in any such Legal Proceeding; (3) waives any objection which it may have to the laying of the jurisdiction of any such Legal Proceeding in any of such courts; and (4) waives its right to a trial by jury in any Legal Proceeding in any of such courts.

SECTION 4.5. BINDING EFFECT. This Guaranty shall inure to the benefit of the City and its permitted successors and assigns and shall be binding upon the Guarantor and its successors and assigns.

SECTION 4.6. AMENDMENTS, CHANGES AND MODIFICATIONS. This Guaranty may not be amended, changed or modified or terminated and none of its provisions may be waived, except with the prior written consent of the City and of the Guarantor.

SECTION 4.7. LIABILITY. It is understood and agreed to by the City that nothing contained herein shall create any obligation of or right to look to any director, officer, employee or stockholder of the Guarantor (or any Affiliate thereof) for the satisfaction of any obligations hereunder, and no judgment, order or execution with respect to or in connection with this Guaranty shall be taken against any such director, officer, employee, member or stockholder.

SECTION 4.8. NOTICES. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered in person to the following addresses or sent by first class mail and facsimile, to such addresses:

- (a) If to the Guarantor: Fortistar Methane 3 LLC

c/o Fortistar LLC
One North Lexington Avenue
White Plains, New York 10601
Attention: Notice Officer

with a copy to:

Mr. Robert Dunbar
Fortistar Methane 3 LLC
c/o Fortistar LLC
219 Landenberg Road
Landenberg, Pennsylvania 19350

with a copy to:

Cooper, White & Cooper LLP
1333 North California Blvd., Suite 450
Walnut Creek, California 94596
Attention: Kristen Thall Peters, Esq.

(b) If to the City:

Public Utilities Department
9192 Topaz Way
San Diego, California 92123
Attention: Assistant Public Utilities
Director, Wastewater Operations Branch

Either party may, by like notice, designate further or different addresses to which subsequent notices shall be sent. Any notice hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee. Notices and communications given by mail hereunder shall be deemed to have been given 5 days after the date of dispatch; all other notices shall be deemed to have been given upon receipt.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed in its name and on its behalf by its duly authorized officer as of the date first above written.

**FORTISTAR METHANE 3 LLC,
as Guarantor**

By: _____
Name: _____
Title: _____

Accepted and Agreed to by:

CITY OF SAN DIEGO

By: _____

Name: _____
Title: _____

Approved as to form and legality this _____ day of _____, 2010.

By _____
Deputy City Attorney

SUPPLEMENTAL GUARANTY AGREEMENT

from

FORTISTAR METHANE 3 LLC

to

THE CITY OF SAN DIEGO, CALIFORNIA

Dated

as of July 1, 2010

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SUPPLEMENTAL GUARANTY AGREEMENT

THIS SUPPLEMENTAL GUARANTY AGREEMENT (this "Guaranty") is made and dated as of July 1, 2010, between Fortistar Methane 3 LLC, a Delaware limited liability company (together with any permitted successors and assigns hereunder, the "Guarantor"), and the City of San Diego, California (the "City").

RECITALS

A. The City and NEO San Diego LLC, a Delaware limited liability company (the "Company"), entered into an Amended and Restated Landfill Gas Lease and Operating Agreement dated as of February 1, 1998 (the "Original Gas Agreement"), whereby the Company agreed to expand and operate a landfill gas collection system at the Miramar Landfill (the "Facility"), all as more particularly described therein. The City and the Company also entered into the Amended and Restated Well Installation Agreement, dated as of February 1, 1998 (the "Original Well Installation Agreement").

B. In order to induce the execution and delivery of the Original Gas Agreement by the City and in consideration thereof, NEO Corporation, a Minnesota corporation, guaranteed the performance by the Company of all of the Company's responsibilities and obligations under the Original Gas Agreement as set forth in that certain Guaranty Agreement dated February 1, 2010 (the "NEO Guaranty").

C. The City and the Company have further amended and restated the Original Gas Agreement as of July 1, 2010. The amendments to the Original Gas Agreement may be referred to as the "Gas Agreement 2010 Amendment" and include an obligation by the Company to provide for the installation of the Phase III Landfill Gas System, as defined in the Gas Agreement 2010 Amendment. The Original Gas Agreement and the Gas Agreement 2010 Amendment may be collectively referred to as the "Gas Agreement."

D. The City and the Company have further amended and restated and the Original Well Installation Agreement (the "Well Installation 2010 Amendment").

E. The Company is in a contractual relationship with a subsidiary ("Subsidiary") of the Guarantor from which the Subsidiary derives significant benefits.

F. The City will enter into the Gas Agreement 2010 Amendment only if the Guarantor guarantees the performance by the Company of all of the Company's responsibilities and obligations under the Gas Agreement 2010 Amendment, including the Company's Obligations to install and operate the Phase III Landfill Gas System as set forth in this Guaranty.

In order to induce the execution and delivery of the Gas Agreement 2010 Amendment by the City and in consideration thereof, the Guarantor agrees as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS. For the purposes of this Guaranty, the following words and terms shall have the respective meanings set forth as follows. Any capitalized word or term used but not defined herein is used as defined in the Gas Agreement.

"Guaranteed Agreements" means the Gas Agreement 2010 Amendment and the Well Installation 2010 Amendment.

"Obligations" means the amounts payable by the Company pursuant to the terms of the Gas Agreement 2010 Amendment and the Well Installation 2010 Amendment.

"Transaction Agreement" means any agreement entered into by the Company or the City in connection with the transactions contemplated by the Guaranteed Agreements and any supplements thereto, including Legal Entitlements, performance bonds and labor and materials payment bonds.

SECTION 1.2. INTERPRETATION. In this Guaranty, unless the context otherwise requires:

(A) References Hereto. The terms "hereby", "hereof", "herein", "hereunder" and any similar terms refer to this Guaranty, and the term "hereafter" means after, and the term "heretofore" means before, the date of execution and delivery of this Guaranty.

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

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

(D) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Guaranty shall be solely for convenience of reference and shall not constitute a part of this Guaranty, nor shall they affect its meaning, construction or effect.

(E) Entire Agreement; Authority. This Guaranty constitutes the entire agreement between the parties hereto with respect to the transactions contemplated by this Guaranty. Nothing in this Guaranty is intended to confer on any person other than the Guarantor, the City and their permitted successors and assigns hereunder any rights or remedies under or by reason of this Guaranty.

(F) Counterparts. This Guaranty may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Guaranty.

(G) Applicable Law. This Guaranty shall be governed by and construed in accordance with the applicable laws of the State of California.

(H) Severability. If any clause, provision, subsection, section or article of this Guaranty shall be ruled invalid by any court of competent jurisdiction, the invalidity of any such clause, provisions, subsection, section or article shall not affect any of the remaining provisions hereof, and this Guaranty shall be construed and enforced as if such invalid portion did not exist provided that such construction and enforcement shall not increase the Guarantor's liability beyond that expressly set forth herein.

(I) Approvals. All approvals, consents and acceptances required to be given or made by any party hereto shall be at the sole discretion of the party whose approval, consent or acceptance is required.

(J) Payments. All payments required to be made by the Guarantor hereunder shall be made in lawful money of the United States of America.

ARTICLE II REPRESENTATIONS AND WARRANTIES OF THE GUARANTOR

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE GUARANTOR.
The Guarantor hereby represents and warrants that:

(A) Existence and Powers. The Guarantor is duly organized and validly existing as a limited liability company under the laws of Delaware, with full legal right, power and authority to enter into and perform its obligations under this Guaranty.

(B) Due Authorization and Binding Obligation. The Guarantor has duly authorized the execution and delivery of this Guaranty, and this Guaranty has been duly executed and delivered by the Guarantor and constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium or by general equity principals of reorganization and other similar laws affecting creditors' rights generally and general principals of equity.

(C) No Conflict. Neither the execution or delivery by the Guarantor of this Guaranty nor the performance by the Guarantor of its obligations hereunder (a) to the Guarantor's knowledge conflicts with, violates or results in a breach of any law or governmental regulation applicable to the Guarantor, (b) conflicts with, violates or results in a material breach of any term or condition of the Guarantor's corporate charter or by-laws or any judgment, decree, agreement or instrument to which the Guarantor is a party or by which the Guarantor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument, or (c) to the Guarantor's knowledge will result in the creation or imposition of any material encumbrance of any nature whatsoever upon any of the properties or assets of the Guarantor except as permitted hereby or by any Transaction Agreement.

(D) No Governmental Approval Required. No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required of

the Guarantor for the valid execution and delivery by the Guarantor of this Guaranty, except such as shall have been duly obtained or made.

(E) No Litigation. There is no action, suit or other proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the Guarantor's knowledge, threatened against the Guarantor which has a likelihood of an unfavorable decision, ruling or finding that would materially and adversely affect the validity or enforceability of this Guaranty.

(F) No Legal Prohibition. The Guarantor has no knowledge of any Applicable Law in effect on the date as of which this representation is being made which would prohibit the performance by the Guarantor of this Guaranty and the transactions contemplated by this Guaranty.

(G) Consent to Agreements. The Guarantor is fully aware of the terms and conditions of the Guaranteed Agreements.

(H) Consideration. This Guaranty is made in furtherance of the purposes for which the Guarantor has been organized, and the assumption by the Guarantor of its obligations hereunder will result in a material benefit to the Guarantor.

ARTICLE III GUARANTY COVENANTS

SECTION 3.1. GUARANTY TO THE CITY. The Guarantor hereby absolutely, presently, irrevocably and unconditionally guarantees to the City for the benefit of the City (1) the full and prompt payment when due of each and all of the payments required to be credited or made by the Company under the Guaranteed Agreements (including all amendments and supplements thereto) to, or for the account of, the City, when the same shall become due and payable pursuant to this Guaranty, and (2) the full and prompt performance and observance of each and all of the Obligations. Notwithstanding the unconditional nature of the Guarantor's obligations as set forth herein, the Guarantor shall have the right to assert the defenses provided in Section 3.4 hereof against claims made under this Guaranty.

SECTION 3.2. RIGHT OF CITY TO PROCEED AGAINST GUARANTOR. This Guaranty shall constitute a guaranty of payment and of performance and not of collection, and the Guarantor specifically agrees that in the event of a failure by the Company to pay or perform any Obligation guaranteed hereunder, the City shall have the right to proceed first and directly against the Guarantor under this Guaranty and without proceeding against the Company or exhausting any other remedies against the Company which the City may have. Without limiting the foregoing, the Guarantor agrees that it shall not be necessary, and that the Guarantor shall not be entitled to require, as a condition of enforcing the liability of the Guarantor hereunder, that the City (1) file suit or proceed to obtain a personal judgment against the Company or any other person that may be liable for the Obligations or any part of the Obligations, (2) make any other effort to obtain payment or performance of the Obligations from the Company other than providing the Company with any notice of such payment or performance as may be required by the terms of the Guaranteed Agreements or required to be given to the Company under

Applicable Law, (3) foreclose against or seek to realize upon any security for the Obligations, or (4) exercise any other right or remedy to which the City is or may be entitled in connection with the Obligations or any security therefor or any other guarantee thereof, except to the extent that any such exercise of such other right or remedy may be a condition to the Obligations of the Company or to the enforcement of remedies under the Guaranteed Agreements. Upon any unexcused failure by the Company in the payment or performance of any Obligation and the giving of such notice or demand, if any, to the Company and Guarantor as may be required in connection with such Obligation and this Guaranty, the liability of the Guarantor shall be effective and shall immediately be paid or performed. Notwithstanding the City's right to proceed directly against the Guarantor, the City (or any successor) shall not be entitled to more than a single full performance of the obligations in regard to any breach or nonperformance thereof.

SECTION 3.3. GUARANTY ABSOLUTE AND UNCONDITIONAL. The obligations of the Guarantor hereunder are absolute, present, irrevocable and unconditional and shall remain in full force and effect until the Company shall have fully discharged the Obligations in accordance with their respective terms, and except as provided in Section 3.4 hereof, shall not be subject to any counterclaim, set-off, deduction or defense (other than full and strict compliance with, or release, discharge or satisfaction of, such Obligations) based on any claim that the Guarantor may have against the Company, the City or any other person. Without limiting the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged or in any way modified by reason of any of the following (whether with or without notice to, knowledge by or further consent of the Guarantor):

- (A) the extension or renewal of this Guaranty or the Guaranteed Agreements up to the specified Terms of each agreement;
- (B) any exercise or failure, omission or delay by the City in the exercise of any right, power or remedy conferred on the City with respect to this Guaranty or the Guaranteed Agreements except to the extent such failure, omission or delay gives rise to an applicable statute of limitations defense with respect to a specific claim;
- (C) any permitted transfer or assignment of rights or obligations under the Guaranteed Agreements or under any other Transaction Agreement by any party thereto, or any permitted assignment, conveyance or other transfer of any of their respective interests in the Facility or in, to or under any of the Transaction Agreements;
- (D) any permitted assignment for the purpose of creating a security interest or mortgage of all or any part of the respective interests of the City or any other person in any Transaction Agreement or in the Facility;
- (E) any renewal, amendment, change or modification in respect of any of the Obligations or terms or conditions of any Transaction Agreement;
- (F) any failure of title with respect to all or any part of the respective interests of any person in the Site or the Facility;

(G) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, moratorium, arrangement, composition with creditors or readjustment of, or other similar proceedings against the Company or the Guarantor, or any of the property of either of them, or any allegation or contest of the validity of this Guaranty or any other Transaction Agreement in any such proceeding (it is specifically understood, consented and agreed to that, to the extent permitted by law, this Guaranty shall remain and continue in full force and effect and shall be enforceable against the Guarantor to the same extent and with the same force and effect as if any such proceeding had not been instituted and as if no rejection, stay, termination, assumption or modification has occurred as a result thereof, it being the intent and purpose of this Guaranty that the Guarantor shall and does hereby waive all rights and benefits which might accrue to it by reason of any such proceeding);

(H) except as permitted by Sections 4.1 or 4.2 hereof, any sale or other transfer by the Guarantor or any Affiliate of any of the capital stock or other interest of the Guarantor or any Affiliate in the Company now or hereafter owned, directly or indirectly, by the Guarantor or any Affiliate, or any change in composition of the interests in the Company;

(I) any failure on the part of the Company for any reason to perform or comply with any agreement with the Guarantor;

(J) the failure on the part of the City to provide any notice to the Guarantor which is not required to be given to the Guarantor pursuant to this Guaranty and to the Company as a condition to the enforcement of Obligations pursuant to the Guaranteed Agreements;

(K) subject to Section 3.4 below, any failure of any party to the Transaction Agreements to mitigate damages resulting from any default by the Company or the Guarantor under any Transaction Agreement;

(L) the merger or consolidation of any party to the Transaction Agreements into or with any other person, or any sale, lease, transfer, abandonment or other disposition of any or all of the property of any of the foregoing to any person;

(M) any legal disability or incapacity of any party to the Transaction Agreements; or

(N) the fact that entering into any Transaction Agreement by the Company or the Guarantor was invalid or in excess of the powers of such party.

Should any money due or owing under this Guaranty not be recoverable from the Guarantor due to any of the matters specified in subparagraphs (A) through (N) above, then, in any such case, such money, together with all additional sums due hereunder, shall nevertheless be recoverable from the Guarantor as though the Guarantor were principal obligor in place of the Company pursuant to the terms of the Guaranteed Agreements, and not merely a guarantor and shall be paid by the Guarantor forthwith subject to the terms of this Guaranty. Notwithstanding anything to the contrary expressed in this Guaranty, nothing in this Guaranty shall be deemed to amend, modify, clarify, expand or reduce the Company's rights, benefits, duties or obligations under the

Guaranteed Agreements. To the extent that any of the matters specified in subparagraphs (A) through (F) and (H) through (N) would provide a defense to, release, discharge or otherwise affect the Company's Obligations, the Guarantor's obligations under this Guaranty shall be treated the same.

SECTION 3.4. DEFENSES, SET-OFFS AND COUNTERCLAIMS. Notwithstanding any provision contained herein to the contrary, the Guarantor shall be entitled to exercise or assert any and all legal or equitable rights or defenses which the Company may have under the Guaranteed Agreements, any Transaction Agreements or under Applicable Law (other than bankruptcy or insolvency of the Company and other than any defense which the Company has expressly waived in the Guaranteed Agreements or the Guarantor has expressly waived in Section 3.5 hereof or elsewhere hereunder), and the obligations of the Guarantor hereunder are subject to such counterclaims, set-offs or deductions which the Company is permitted to assert pursuant to the Guaranteed Agreements if any.

SECTION 3.5. WAIVERS BY THE GUARANTOR. The Guarantor hereby unconditionally and irrevocably waives:

- (A) notice from the City of its acceptance of this Guaranty;
- (B) notice of any of the events referred to in Section 3.3 hereof except to the extent that notice is required to be given as a condition to the enforcement of Obligations;
- (C) to the fullest extent lawfully possible, all notices which may be required by statute, rule of law or otherwise to preserve intact any rights against the Guarantor, except any notice to the Company required pursuant to the Guaranteed Agreements or Applicable Law as a condition to the performance of any Obligation;
- (D) to the fullest extent lawfully possible, any statute of limitations defense based on a statute of limitations period which may be applicable to guarantors (or parties in similar relationships) which would be shorter than the applicable statute of limitations period for the underlying claim;
- (E) any right to require a proceeding first against the Company;
- (F) any right to require a proceeding first against any person or the security provided by or under any Transaction Agreement except to the extent such Transaction Agreement specifically requires a proceeding first against any person (except the Company) or security;
- (G) any requirement that the Company be joined as a party to any proceeding for the enforcement of any term of any Transaction Agreement;
- (H) the requirement of, or the notice of, the filing of claims by the City in the event of the receivership or bankruptcy of the Company; and
- (I) all demands upon the Company or any other person and all other formalities the omission of any of which, or delay in performance of which, might, but for the

provisions of this Section 3.5, by rule of law or otherwise, constitute grounds for relieving or discharging the Guarantor in whole or in part from its absolute, present, irrevocable, unconditional and continuing obligations hereunder.

SECTION 3.6. PAYMENT OF COSTS AND EXPENSES. The Guarantor agrees to pay the City on demand all reasonable costs and expenses, legal or otherwise (including counsel fees), incurred by or on behalf of the City in successfully enforcing by Legal Proceeding observance of the covenants, agreements and obligations contained in this Guaranty against the Guarantor, other than the costs and expenses that the City incurs in performing any of its obligations under the Landfill Gas Lease and Operating Agreement, or other applicable Transaction Agreement where such obligations are a condition to performance by the Company of its Obligations.

SECTION 3.7. SUBORDINATION OF RIGHTS. The Guarantor agrees that any right of subrogation or contribution which it may have against the Company as a result of any payment or performance hereunder is hereby fully subordinated to the rights of the City hereunder and under the Transaction Agreements and that the Guarantor shall not recover or seek to recover any payment made by it hereunder from the Company until the Company and the Guarantor shall have fully and satisfactorily paid or performed and discharged the Obligations giving rise to a claim under this Guaranty.

SECTION 3.8. SEPARATE OBLIGATIONS; REINSTATEMENT. The obligations of the Guarantor to make any payment or to perform and discharge any other duties, agreements, covenants, undertakings or obligations hereunder shall (1) to the extent permitted by Applicable Law, constitute separate and independent obligations of the Guarantor from its other obligations under this Guaranty, (2) give rise to separate and independent causes of action against the Guarantor and (3) apply irrespective of any indulgence granted from time to time by the City. The Guarantor agrees that this Guaranty shall be automatically reinstated if and to the extent that for any reason any payment or performance by or on behalf of the Company is rescinded or must be otherwise restored by the City, whether as a result of any proceedings in bankruptcy, reorganization or similar proceeding, unless such rescission or restoration is pursuant to the terms of the Guaranteed Agreements, or any applicable Transaction Agreement or the Company's enforcement of such terms under Applicable Law.

SECTION 3.9. TERM. This Guaranty shall remain in full force and effect from the date of execution and delivery hereof until all of the Obligations of the Company have been fully paid and performed.

ARTICLE IV GENERAL COVENANTS

SECTION 4.1. MAINTENANCE OF CORPORATE EXISTENCE.

(A) Consolidation, Merger, Sale or Transfer. The Guarantor covenants that during the term of this Guaranty it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it unless

the successor is the Guarantor; provided, however, that the Guarantor may consolidate with or merge into another entity, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer to another entity all or substantially all of its assets as an entirety and thereafter dissolve if the successor entity (if other than the Guarantor) (a) assumes in writing all the obligations of the Guarantor hereunder and, if required by law, is duly qualified to do business in the State of California, and (b) delivers to the City an opinion of counsel to the effect that its obligations under this Guaranty are legal, valid, binding and enforceable subject to applicable bankruptcy and similar insolvency or moratorium laws.

(B) Continuance of Obligations. If a consolidation, merger or sale or other transfer is made as permitted by this Section 4.1, the provisions of this Section 4.1 shall continue in full force and effect and no further consolidation, merger or sale or other transfer shall be made except in compliance with the provisions of this Section 4.1. No such consolidation, merger or sale or other transfer shall have the effect of releasing the initial Guarantor from its liability hereunder unless a successor entity has assumed responsibility for this Guaranty as provided in this Section 4.1.

SECTION 4.2. ASSIGNMENT. Without the prior written consent of the City, this Guaranty may not be assigned by the Guarantor, except (a) pursuant to Section 4.1 hereof, and (b) the Guarantor may assign this Guaranty to any entity (the “Assuming Entity”) that (i) is no less creditworthy than the Guarantor, subject to the reasonable approval of the City, and (ii) expressly assumes all obligations of the Guarantor hereunder in a writing delivered to the City at its address specified for notices herein. Any assignment under Section 4.2(b) is subject to the prior written approval of the City, which approval may be withheld in the City’s sole discretion, not to be unreasonably withheld or delayed. Upon any such assignment and assumption the Guarantor shall have no further liability hereunder from and after the date of the assignment, and all liability hereunder from and after that date shall thereafter be the responsibility of the Assuming Entity.

SECTION 4.3. QUALIFICATION IN CALIFORNIA. The Guarantor agrees that, so long as this Guaranty is in effect, if required by law, the Guarantor will be duly qualified to do business in the State of California.

SECTION 4.4. CONSENT TO JURISDICTION. The Guarantor irrevocably: (1) agrees that any Legal Proceeding arising out of this Guaranty shall be brought in the State or federal courts in San Diego County, California having appropriate jurisdiction; (2) consents to the jurisdiction of such court in any such Legal Proceeding; (3) waives any objection which it may have to the laying of the jurisdiction of any such Legal Proceeding in any of such courts; and (4) waives its right to a trial by jury in any Legal Proceeding in any of such courts.

SECTION 4.5. BINDING EFFECT. This Guaranty shall inure to the benefit of the City and its permitted successors and assigns and shall be binding upon the Guarantor and its successors and assigns.

SECTION 4.6. AMENDMENTS, CHANGES AND MODIFICATIONS. This Guaranty may not be amended, changed or modified or terminated and none of its provisions may be waived, except with the prior written consent of the City and of the Guarantor.

SECTION 4.7. LIABILITY. It is understood and agreed to by the City that nothing contained herein shall create any obligation of or right to look to any director, officer, employee, member or stockholder of the Guarantor (or any Affiliate thereof) for the satisfaction of any obligations hereunder, and no judgment, order or execution with respect to or in connection with this Guaranty shall be taken against any such director, officer, employee or stockholder.

SECTION 4.8. NOTICES. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered in person to the following addresses or sent by first class mail and facsimile, to such addresses:

(a) If to the Guarantor: Fortistar Methane 3 LLC
c/o Fortistar LLC
One North Lexington Avenue
White Plains, New York 10601
Attention: Notice Officer

with a copy to: Mr. Robert Dunbar
Fortistar Methane 3 LLC
c/o Fortistar LLC
219 Landenberg Road
Landenberg, Pennsylvania 19350

with a copy to: Cooper, White & Cooper LLP
1333 North California Blvd., Suite 450
Walnut Creek, California 94596
Attention: Kristen Thall Peters, Esq.

(b) If to the City: Public Utilities Department
9192 Topaz Way
San Diego, California 92123
Attention: Assistant Public Utilities
Director, Wastewater Operations
Branch

Either party may, by like notice, designate further or different addresses to which subsequent notices shall be sent. Any notice hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee. Notices and communications given by mail hereunder shall be deemed to have been given five (5) days after the date of dispatch; all other notices shall be deemed to have been given upon receipt.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed in its name and on its behalf by its duly authorized officer as of the date first above written.

**FORTISTAR METHANE 3 LLC
as Guarantor**

By: _____
Name: _____
Title: _____

Accepted and Agreed to by:

CITY OF SAN DIEGO

By: _____
Name: _____
Title: _____

Approved as to form and legality this _____ day of _____, 2010.

By _____
Deputy City Attorney