

SAMPLE FORMS - CONTRACTS  
California Producer Interconnect Collectible System  
Upgrade Agreement - Form No. 6456

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(See Attached Form)

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(TO BE INSERTED BY UTILITY)  
ADVICE LETTER NO. 4177-A  
DECISION NO. 07-08-029,10-09-001

ISSUED BY  
**Lee Schavrien**  
Senior Vice President

(TO BE INSERTED BY CAL. PUC)  
DATE FILED Nov 18, 2013  
EFFECTIVE Feb 1, 2015  
RESOLUTION NO. G-3489

EXHIBIT C

CALIFORNIA PRODUCER INTERCONNECT  
COLLECTIBLE SYSTEM UPGRADE AGREEMENT

This Agreement (“Agreement”) is entered into as of \_\_\_\_\_[date] (“Effective Date”) by and between Southern California Gas Company (“SoCalGas”) and \_\_\_\_\_[company name], a \_\_\_\_\_[type] company (“Interconnector”). SoCalGas and Interconnector may be referred to herein severally as a “Party,” or jointly as “Parties.”

WHEREAS, SoCalGas is a public utility regulated by the California Public Utilities Commission and is involved in the receipt and redelivery of natural gas to its customers; and

WHEREAS, Interconnector owns and controls natural gas which is capable of being physically delivered into SoCalGas’ pipeline system within the State of California; and

WHEREAS, Interconnector is a \_\_\_\_\_[company type] and would benefit from SoCalGas being capable of receiving Gas at the Interconnection Point for redelivery to customers; and

NOW THEREFORE, in consideration of the promises and mutual undertakings set forth below, SoCalGas and Interconnector agree as follows:

**SECTION 1**  
**SCOPE OF AGREEMENT**

(a) Scope - This Agreement sets forth the terms and conditions under which SoCalGas or Interconnector agrees to design, engineer and construct Gas facilities including pipelines, meters, regulators and appurtenant facilities and related system upgrades in order to provide the Interconnect Capacity from Interconnector’s pipeline facilities near \_\_\_\_\_ in \_\_\_\_\_, California to SoCalGas’ existing utility system. Such facilities, which include all facilities and equipment necessary for receipt of Interconnector’s Gas, shall permit Gas to be delivered by Interconnector to SoCalGas pursuant to the California Producer Interconnection Agreement (“CPIA”) and California Producer Operational Balancing Agreement (“CPOBA”) between the Parties dated \_\_\_\_\_[date], for the account of itself or its affiliates or third parties for transport on SoCalGas’ pipeline system in California. Interconnector agrees to pay the actual costs for SoCalGas’ Facilities if constructed by SoCalGas hereunder. Payment by Interconnector does not imply that Interconnector is entitled to receive transportation services from the Interconnection Point under this Agreement. Attached hereto as Exhibit A and incorporated by reference herein is a map on which the Interconnector’s Facilities are indicated generally. The Interconnection Point and SoCalGas’ Facilities (see definition for each below) are indicated generally on the map attached hereto as Exhibit B, and incorporated by reference herein.

(b) Definitions - For purposes of this Agreement the following words when used herein shall have the meaning set forth below:

(i) “SoCalGas’ Facilities” shall mean the Gas pipelines, appurtenant facilities, meters, regulators, quality measurement, other equipment and related system upgrades at and from the Interconnection Point, for receipt into SoCalGas’ system in the state of California pursuant to this Agreement. SoCalGas’ Facilities shall be owned and operated by SoCalGas.

(ii) “CPUC” shall mean the Public Utilities Commission of the State of California.

(iii) “Gas” shall mean any mixture of hydrocarbons or of hydrocarbons and non-combustible gases, in a gaseous state, consisting essentially of methane, that is of general merchantable quality and meeting the quality specifications of SoCalGas’ tariffs, rules and other applicable regulations.

(iv) “In-Service Date” is that date when SoCalGas’ Facilities from the Interconnection Point are operationally capable of utilizing the Interconnect Capacity on a continuous basis for Gas deliveries from Interconnector, and receipt thereof by SoCalGas at the Interconnection Point. This does not address whether the Interconnector has established the physical capability for the Interconnect Capacity at the Interconnection Point nor does it address whether SoCalGas has established the physical takeaway capability for the Interconnect Capacity downstream of the outlet of SoCalGas’ Facilities at the Interconnection Point.

(v) “Interconnect Capacity” shall be as defined in the CPIA. Interconnect Capacity does not reflect SoCalGas’ ability to provide takeaway capacity from the outlet of SoCalGas’ Facilities at the Interconnection Point.

(vi) “Interconnection Point” shall mean that point where SoCalGas’ Facilities and Interconnector’s Facilities physically interconnect for delivery of Gas by Interconnector to, and receipt thereof by, SoCalGas as set forth on Exhibit B.

(vii) “Interconnector’s Facilities” shall mean those Gas pipeline facilities, as shown generally on Exhibit A, to be constructed and operated by Interconnector up to the Interconnection Point.

(c) Hinshaw Exemption - SoCalGas is exempt from jurisdiction of the Federal Energy Regulatory Commission (FERC) under the Hinshaw Exemption. SoCalGas shall not be required to take any action hereunder, including without limitation to enter into any contracts with third parties transporting Gas on Interconnector’s Facilities to the Interconnection Point, which for any reason jeopardizes or in SoCalGas’ sole opinion could reasonably raise a question regarding SoCalGas’ retention of its Hinshaw Exemption under the Natural Gas Act (15 U.S.C. §717(c)). While SoCalGas has the right and obligation to take action to protect its Hinshaw Exemption status, SoCalGas shall notify the Interconnector as soon as SoCalGas becomes aware

that any action under the Agreement jeopardizes its Hinshaw Exemption. SoCalGas shall make a good faith effort to allow the Interconnector an opportunity to take such actions as necessary to assist SoCalGas in eliminating the concern.

## **SECTION 2** **CONDITIONS PRECEDENT**

(a) Intent - This Agreement establishes the intent of the Parties that they shall attempt diligently, and cooperate with each other in good faith, to discharge promptly all conditions set forth in Subsection 2(b) prior to the dates specified below. In the event such conditions are not satisfied or waived by the date applicable thereto, this Agreement may be terminated as specified in Subsection 2(d).

(b) Conditions:

(i) Governmental Authorizations:

1. Interconnector: On or before \_\_\_\_\_[date], Interconnector shall have received and accepted from any and all applicable governmental entities all material authorizations necessary for the construction and operation of Interconnector's Facilities.

2. SoCalGas: On or before commencement of construction, SoCalGas shall have received and accepted: (1) from the CPUC, if necessary, authorizations approving this Agreement, and provided that such authorizations are, in the sole discretion of SoCalGas, acceptable to SoCalGas; and (2) from any other governmental or local agency, if necessary in SoCalGas' sole judgment, the proper approvals required for SoCalGas to dispense its duties under this Agreement.

(ii) Interconnector Commitments: If Interconnector elects to have SoCalGas construct any of SoCalGas' Facilities, on or before commencement of construction, Interconnector shall have paid SoCalGas for SoCalGas' total estimated expenditures/investments related to the interconnection of Interconnector's Facilities to SoCalGas' Facilities as set forth in Section 3 (c) herein. If Interconnector elects to construct any of SoCalGas' Facilities ("Self-Build Alternative"), on or before commencement of construction, Interconnector shall have paid SoCalGas' total estimated costs for SoCalGas' activities in support of the Self-Build Alternative as set forth in Exhibits C and D.

(iii) SoCalGas Commitments: On or before commencement of construction, SoCalGas shall have accepted payment by Interconnector of the total estimated expenditures/investments related to the interconnection of Interconnector's Facilities to SoCalGas' Facilities as set forth in Section 3 (c) and/or Exhibit D herein.

(c) Notification - Each Party shall notify the others in writing whenever in its sole opinion any of the foregoing conditions in Subsection 2(b) have been satisfied. Interconnector shall retain the right to waive conditions 2(b)(i)(2) and SoCalGas shall retain the right to waive conditions 2(b)(i)(1) and 2(b)(ii) (but no such condition may be waived except in writing).

(d) Termination Conditions - In the event that any of the conditions in subsection 2(b) have not been satisfied or waived by all Parties by the date specified therein, the Parties shall meet within fifteen (15) calendar days following such date to discuss in good faith whether or not this Agreement can be restructured on a mutually satisfactory basis under the circumstances. In the event the Parties are unable to agree on such a restructuring within forty-five (45) calendar days after the first meeting on such matter, this Agreement may either (i) be extended up to an additional ninety (90) calendar days thereafter by mutual consent obtained on or before such 45th day, or (ii) be terminated if any Party, within fifteen (15) calendar days thereafter, gives ten (10) calendar days prior written notice; provided, however, such termination shall not become effective if such condition under Subsection 2(b) has been satisfied or waived prior to the effective date of such termination.

(e) Cooperation - Each Party shall cooperate with the other Parties as is reasonable under the circumstances, and keep the other Parties advised of all significant developments in connection with applying for or obtaining satisfaction of the conditions specified in Subsection 2(b).

(f) Termination Charges - In the event that this Agreement is terminated under Subsection 2(d), Interconnector shall pay SoCalGas the actual costs of that portion of SoCalGas' Facilities constructed to date plus any other costs already incurred and other unavoidable costs incurred or to be incurred by SoCalGas arising out of SoCalGas' performance pursuant to this Agreement.

### **SECTION 3**

#### **CONSTRUCTION, PAYMENT, AND OPERATIONS**

(a) Description of Interconnection Facilities - Interconnector's Facilities shall interconnect with the SoCalGas' Facilities at the Interconnection Point. All deliveries of Gas by Interconnector to SoCalGas for transport shall occur at the Interconnection Point. All Interconnector's and SoCalGas' Facilities shall meet SoCalGas' minimum specifications for materials, installation, testing and acceptance.

(b) Installation of Facilities

(i) At the Interconnection Point, Interconnector shall install such piping, regulators, valves, separators, quality measurement, odorant or other equipment as the Parties mutually agree are necessary on the Interconnector's system to deliver at the Interconnection Point Gas volumes in an amount up to the Interconnect Capacity (or such other volume as

mutually agreed) at a delivery pressure sufficient to enter the SoCalGas system at the Interconnection Point, but not to exceed the Maximum Allowable Operating Pressure (MAOP), as solely determined by SoCalGas.

(ii) SoCalGas shall design, engineer, acquire permits and rights-of-way for, if necessary, construct, and install such piping, regulators, valves, meters, separators, quality measurement, odorant or other equipment, as it deems necessary to have the capability to measure, regulate, and receive from the Interconnection Point Gas volumes in an amount up to the Interconnect Capacity (or such other volume as mutually agreed).

(iii) In the event Interconnector elects to design, permit, and/or construct any of SoCalGas' Facilities at its own costs per the Self-Build Alternative, the terms and conditions contained in Exhibits C and D shall apply.

(iv) No SoCalGas Facilities which are to be paid for by Interconnector shall be designed, engineered or constructed by SoCalGas without Interconnector's prior written approval of the total estimated cost, as set forth in Exhibit C. Interconnector acknowledges that the total estimated cost is an estimate only and that Interconnector will be responsible for SoCalGas' actual costs including, but not limited to, its labor, procurement, permits and associated fees, indirect costs and internal overheads, of designing, engineering, installing and constructing any facilities described in Exhibit C, including any related income tax liability thereon, whether or not such costs are above or below advance payments made or detailed cost estimates provided to Interconnector by SoCalGas.

(v) SoCalGas shall submit to Interconnector, as available from time to time, any proposal regarding the scope of services to be performed, and schedules for construction (including ordering materials) and estimated costs related to implementing such Interconnection Capacity as set forth in Exhibit C, based on the mutually agreed date projected as the In-Service Date (as determined in good faith from time to time).

(vi) Interconnector shall, within a reasonable period of time given the nature of any such proposal, accept or reject any such proposal in writing.

(vii) Interconnector shall be solely responsible hereunder for any failure by SoCalGas to timely complete SoCalGas' Facilities at the Interconnection Point delaying the In-Service Date including all costs resulting therefrom, which failure is solely attributable to Interconnector's delay or refusal in approving any reasonable proposal by SoCalGas.

(viii) Prior to SoCalGas making any financial commitment hereunder, SoCalGas, in its sole discretion, shall be satisfied that Interconnector has the financial capability of performing fully any payment obligations to SoCalGas that may arise in connection therewith.

(ix) If the Interconnection Point or any related facilities are deemed noncompliant with any order, rule or regulation of any governmental agency as interpreted by SoCalGas, SoCalGas shall send Interconnector a notice of the noncompliance along with a cost estimate and scope of additional work for correction that would be done pursuant to the terms

herein. The Interconnector shall have thirty (30) calendar days to respond to SoCalGas with payment of estimated costs for the specified remediation project. If the correction work qualifies to be done as part of Interconnector's Self-Build Alternative, Interconnector may respond within such thirty days and elect to self-build pursuant to the terms of Exhibit D. At such time Interconnector must pay SoCalGas' estimated costs to be incurred for the Self-Build Alternative and guarantee that the completion date for the work will be the earlier of 1) such completion date as prescribed by a governmental agency, or 2) within six (6) months. Failure by Interconnector to provide an acceptable response to SoCalGas shall result in a suspension of access at the Interconnection Point until such time as the identified issue is corrected to SoCalGas' satisfaction.

(c) Payment by Interconnector - Interconnector shall advance SoCalGas' total estimated costs set forth within the scope of an approved Exhibit C and Exhibit D, if applicable. After a final accounting has been made by SoCalGas but in no event later than \_\_\_\_\_[date], Interconnector shall reimburse SoCalGas for its actual costs above the prepaid estimated costs, including indirect costs and overheads, carrying costs, designing, engineering, installing, permitting and constructing SoCalGas' Facilities set forth in an approved Exhibit C and Exhibit D, and including any related income, CIAC, or other tax liability thereon, even if such costs are above cost estimates provided to Interconnector by SoCalGas within thirty (30) calendar days of invoice from SoCalGas. After a final accounting has been made by SoCalGas but in no event later than \_\_\_\_\_[date], any advances paid, which are in excess of SoCalGas' actual costs, shall be returned to Interconnector.

(i) Interconnector may request and SoCalGas shall agree to Interconnector's audit by a certified public accountant of the accounting records applicable to the construction of SoCalGas' Facilities installed and owned by SoCalGas hereunder at Interconnector's expense. Such audit may be conducted during the term hereof or for a period of up to one year after termination.

(d) Interconnector Guaranty - In the event that on or before, \_\_\_\_\_, the In-Service Date has not occurred, SoCalGas shall invoice Interconnector and Interconnector shall within ninety (90) calendar days following receipt of the invoice, reimburse SoCalGas for the actual costs unpaid to date (including indirects, overheads, and carrying costs if applicable) of all SoCalGas' Facilities constructed and services provided pursuant to this Agreement.

(e) Coordination - The Parties shall cooperate together and establish such procedures as may be deemed appropriate by the Parties to coordinate the design, planning, construction and completion by the In-Service Date of Interconnector's and SoCalGas' Facilities at the Interconnection Point.

(f) General Indemnity - As between SoCalGas on the one hand, and Interconnector on the other hand, each Party shall be solely responsible for, and shall indemnify, defend and hold the other Party and its officers, shareholders, employees, agents, representatives, successors and assigns harmless from and against any and all claims, actions, suits, proceedings, losses, liabilities, penalties, fines, damages, costs or expenses including without limitation, reasonable attorneys fees (including fees and disbursements of in-house and outside counsel) of

any kind whatsoever to the extent resulting from the indemnifying Party's negligent performance of its obligations pursuant to this Agreement.

(g) Specific Indemnity - As to the actual "tying-in" of the respective facilities constructed by the Parties under this agreement, SoCalGas shall be solely responsible for performing the "tie-in".

#### **SECTION 4** **ASSIGNMENT**

Assignment - Assignment or transfer of the entire rights and obligations of either Party hereunder shall only be permitted under the following circumstances:

(a) When the assignment is to a successor, representative or assignee which shall succeed by purchase, merger, corporate reorganization/restructuring or consolidation to all or substantially all of the assets of Interconnector or SoCalGas, as the case may be and when the assignment is to a parent, affiliate or subsidiary of a Party hereto; or

(b) When either Party assigns or pledges this Agreement under the provisions of any mortgage, deed of trust, indenture or similar instrument which it has executed or may execute hereafter; however, in such event the other Party shall be provided prior written notice thereof; or

(c) When the Party assigning shall have first obtained the consent in writing of the other Party hereto, such consent shall not be unreasonably withheld.

#### **SECTION 5** **NOTICES**

(a) Form of Notice - All notices including invoices provided for herein shall be given in writing, and either hand delivered, or sent by prepaid priority courier, or sent by telephone facsimile ("telefax") with original to follow by regular mail. In the case of courier delivery, delivery shall be deemed to occur three (3) business days after delivery to the courier by the sending Party and in the case of telefax the following business day after telephonic confirmation that the message was sent and received. Unless changed as set forth below, the addresses and telefax number of the Parties for purposes of this Section 5 are as follows:



Interconnector:

Mailing Address:

Telefax Number:

SoCalGas:

Mailing Address: Southern California Gas Company  
Box 3249, M.L. \_\_\_\_\_  
Los Angeles, California 90051-1249

Telefax Number: (213) 244-

(b) Telephone Contacts - At any time a telephone call is required to confirm the sending and receipt of any telefax notices, the following telephone numbers shall be utilized:

Interconnector:

Confirmation Telephone:

Contact:

SoCalGas:

Confirmation Telephone: (213) 244-

Contact:

(c) Changes - The designated contact, address and telefax and telephone numbers specified herein may be changed from time to time by the Party affected after two (2) calendar days written notice.

**SECTION 6**  
**LIMITED WARRANTY**

(a) Services - SoCalGas warrants to Interconnector that the work performed by SoCalGas will meet or exceed all generally accepted industry standards for this type of work. SoCalGas disclaims any other warranty, express or implied, and disclaims all implied warranties of fitness for intended purpose.

(b) Interconnector Services - Interconnector warrants to SoCalGas that any work performed by Interconnector hereunder will meet or exceed all generally accepted industry standards for this type of work. Interconnector disclaims any other warranty, express or implied, and disclaims all implied warranties of fitness for intended purpose except to the extent described in Exhibit D, and hereby waives any and all claims against SoCalGas that arise from any work performed by Interconnector.

(c) Limitation of Liability - The warranties expressly provided for above are in lieu of all other express or implied warranties. SoCalGas is not committing to provide any capacity on its system or access rights to its system to Interconnector as a result or benefit of this Agreement. In no event shall SoCalGas be liable for punitive, consequential, indirect, incidental, or special damages or for lost business or lost profits, whether under tort, breach of contract, strict liability, or any other theory, even if SoCalGas has been advised of the possibility of such damages.

**SECTION 7**  
**MISCELLANEOUS**

(a) Laws - The formation, interpretation and performance of this Agreement shall be governed by the internal laws of the State of California, without reference to principles of conflicts of laws.

(b) Force Majeure - In the event a Party is rendered unable, wholly or in part, by an event of force majeure (as defined in SoCalGas' tariff) to carry out its respective obligations under this Agreement, it is agreed that upon such Party giving notice and reasonably full particulars of such event of force majeure in writing, electronic mail or by telecopy or by telephone (and confirmed in writing within seventy-two (72) hours thereafter), to the other Party within a reasonable time after the occurrence of the cause relied on, then the obligations of the Party giving such notice, so far as they are affected by such event of force majeure, shall be suspended during the continuance of the effects of the cause, but for no longer period and the Party subject to such cause shall remedy it so far as possible with all reasonable dispatch. In the event of a delay caused by a force majeure event, the time for completion shall be extended by a period of time reasonably necessary to overcome the effect of such delay.

(c) Entire Agreement - This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, supersedes all prior discussions, agreements and understandings, whether oral or written, which the Parties may have in connection herewith and may not be amended or modified except by written agreement of the Parties, and shall not be modified by course of performance, course of conduct or usage of trade.

(d) Execution of Documents - Each Party shall do all necessary acts and make, execute, and deliver such written instruments as shall from time to time be reasonably necessary to carry out the terms of this Agreement.

(e) Publicity - Any public statements, publicity or press releases concerning this Agreement and the transactions contemplated by this Agreement shall be jointly planned and coordinated by and between the Parties. No Party shall act unilaterally regarding such publicity or press releases without the prior written approval of the other Parties, which approval shall not be unreasonably withheld.

(f) Disputes - Any dispute or need for interpretation arising out of this Agreement, which cannot be resolved after a reasonable period of time of good faith negotiation, will be submitted to the CPUC for resolution.

(g) Term - This Agreement shall become effective on the Effective Date provided at the beginning of this Agreement and, unless terminated earlier, continue until the “In Service Date” for Interconnector’s Facilities.

(h) Attorneys’ Fees - Should any dispute arise regarding any term or provision of this Agreement or enforcement of any rights hereunder, or to collect any portion of the amount payable under this Agreement, then all litigation and collection expenses, witness fees, court costs and attorney's fees shall be paid to the prevailing Party.

(i) Regulation - SoCalGas is a California utility subject to the jurisdiction of the CPUC. In the event the CPUC, or any other administration agency with jurisdiction over the subject matter hereof, materially change, alter or modify this Agreement, such that a party is deprived of its benefits anticipated herein such Party may terminate this Agreement upon 15 calendar days notice or immediately if necessary to comply. In such event Interconnector remains liable for payment of those costs incurred by SoCalGas pursuant to any approved Exhibit B up to such date.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed in two (2) copies by their authorized representatives as of the day and year first written above.

INTERCONNECTOR

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SOUTHERN CALIFORNIA GAS COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A: INTERCONNECTOR'S FACILITIES**

**TO THE CALIFORNIA PRODUCER INTERCONNECT COLLECTIBLE SYSTEM  
UPGRADE AGREEMENT**

between

\_\_\_\_\_ and  
Southern California Gas Company  
Dated: \_\_\_\_\_, 20\_\_

**EXHIBIT B: INTERCONNECTION POINT AND SOCALGAS' FACILITIES**  
**TO THE CALIFORNIA PRODUCER INTERCONNECT COLLECTIBLE SYSTEM**  
**UPGRADE AGREEMENT**

between

\_\_\_\_\_ and  
Southern California Gas Company  
Dated: \_\_\_\_\_, 20\_\_

**EXHIBIT C: SCOPE OF SERVICES**

**TO THE CALIFORNIA PRODUCER INTERCONNECT COLLECTIBLE SYSTEM  
UPGRADE AGREEMENT**

between

\_\_\_\_\_ and  
Southern California Gas Company  
Dated: \_\_\_\_\_, 20\_\_

**EXHIBIT D: SELF-BUILD ALTERNATIVE**

**TO THE CALIFORNIA PRODUCER INTERCONNECT COLLECTIBLE SYSTEM  
UPGRADE AGREEMENT**

between

\_\_\_\_\_ and

Southern California Gas Company

Dated: \_\_\_\_\_, 20\_\_

**1. Design**

Where Interconnector chooses to design, permit, and install certain SoCalGas' Facilities ("Self-Build Facilities"), all work must be performed in accordance with (a) SoCalGas' planning and design criteria, specifications for equipment and material, construction standards and methods, and operational and maintenance requirements, (all of which SoCalGas shall make reasonably available to Interconnector for Interconnector's inspection and subsequent use) and (b) all applicable jurisdictional permit requirements. SoCalGas reserves the right to provide to Interconnector and Interconnector shall accept and use if provided, certain elements of the design of SoCalGas' choosing, including, but not limited to, the measurement elements of the design such as the meter and the Gas chromatograph. Interconnector shall be responsible for and will pay any and all of SoCalGas' costs associated with SoCalGas' oversight, coordination, inspection, review and acceptance of Interconnector's design, permitting, and construction work for the Self-Build Facilities, including applicable overheads and third party costs.

**2. Contractors**

All design, jurisdictional permitting, and construction work must be performed using qualified employees, agents and/or contractors. At a minimum, Interconnector, its agent(s), designer(s) and/or contractor(s) shall (a) be licensed in California for the appropriate type of work, (b) employ workers properly qualified and skilled, (c) comply with applicable laws, (d) carry statutorily required workers' compensation insurance, employers' liability insurance, and at least One Million Dollars (\$1,000,000.00) in general commercial liability insurance naming SoCalGas as an additional named insured, and (e) indemnify SoCalGas and hold it harmless from all liability in connection with Interconnector's or its contractor's, designer's or agent's work.

**3. Self-Build Facilities Installation**

Interconnector shall be responsible for all construction, equipment and facility requirements related to the Self-Build Facilities at Interconnector's expense, including, but not limited to, all trenching/excavation, backfilling compaction, surface repair, including furnishing any imported backfill material required, and furnishing and installing all pipes, valves, fittings, regulators, meters and substructures, all in accordance with SoCalGas' specifications.



#### **4. Acceptance of Self-Build Facilities**

SoCalGas shall have, at its sole discretion, the right to approve that the design, permit and/or construction of Self-Build Facilities comply with SoCalGas' standards, specifications and requirements. SoCalGas shall have the right to (a) inspect all construction work, (b) review all final control and measurement system(s) programming and configuration, (c) perform acceptance testing, and (d) commission Self-Build Facilities, all of which shall be performed by SoCalGas' personnel and/or agents and shall be paid for by Interconnector. Where Self-Build Facilities are at a new location, Interconnector shall allow SoCalGas thirty (30) calendar days following the completion of construction for programming, testing and commissioning activities prior to commencement of deliveries at the Interconnection Point.

#### **5. Ownership of Self-Build Facilities**

Upon formal acceptance of the Interconnector-designed and constructed Self-Build Facilities by SoCalGas, ownership of such Self-Build Facilities shall transfer to (and vest in) SoCalGas by executing a California Producer Agreement for Transfer of Ownership of Interconnection Point Systems (Form 6458). All Self-Build Facilities installed pursuant to this Agreement or otherwise shall be and remain at all times, the sole property of SoCalGas. If the Self-Build Facilities are no longer used to accept and receive Interconnector's Gas into SoCalGas' system, the Parties may mutually agree for Interconnector to repurchase such Self-Build Facilities, excluding any equipment which contained, or may have contained, odorant (including, but not limited to, odorant tanks), following Interconnector's payment for Self-Build Facilities removal and restoration of the site to its condition prior to the construction of the Interconnection Point pursuant to this Agreement.

#### **6. Maintenance of Self-Build Facilities**

Only SoCalGas' employees or agents shall be allowed to connect to, disconnect from, operate, maintain, or perform any work on SoCalGas' system. Interconnector, for the life of the Agreement or Self-Build Facilities, whichever is longer, shall remain obligated to reimburse SoCalGas for any and all reasonable costs incurred by SoCalGas associated with the maintenance, operation, capital enhancement and decommissioning of Self-Build Facilities, as deemed necessary or appropriate by SoCalGas. Interconnector hereby grants to SoCalGas, its successor and assigns, the right of ingress to and egress from Interconnector's premises at all reasonable hours for any purposes reasonably connected with the operation and maintenance of the Self-Build Facilities.

#### **7. Warranty**

Prior to the acceptance of the Self-Build Facilities by SoCalGas, Interconnector shall be responsible for (a) the continued maintenance of the Self-Build Facilities to preserve its integrity, (b) the safe and reliable operation of the Self-Build Facilities in accordance with applicable laws, rules, regulations, ordinances and the like, and (c) all injury and damage resulting from operation of the Self-Build Facilities. After transfer, SoCalGas shall assume

responsibility for operation of the Self-Build Facilities and provision of service and shall, per the CPIA and/or the California Producer Interconnect Collectible System Upgrade Agreement (“CPICSUA”), assume liability for operation of the Self-Build Facilities except with respect to defects known to Interconnector and not disclosed to SoCalGas during the transfer of ownership process or breach of Interconnector’s representations. Interconnector warrants that all work and/or equipment furnished or installed by Interconnector or its contractor shall be free of defects in workmanship and material. If Interconnector elects to have any part of the Self-Build Facilities installed by a third party, Interconnector shall require at least a three (3)-year warranty on installation and parts from the contractor and/or supplier of materials and shall assign such warranty to SoCalGas. The warranty period shall begin from the date of final acceptance by SoCalGas and extend for three (3) years. Should the Self-Build Facilities develop defects during that period, SoCalGas, at its election, shall either (a) repair or replace the defective work and/or equipment per the CPIA and/or CPICSUA, or (b) demand that Interconnector repair or replace the defective work and/or equipment. In either event, Interconnector shall be liable for all costs, claims or other liabilities associated with such repair and/or replacement. Interconnector upon demand by SoCalGas shall promptly correct, to SoCalGas' satisfaction and that of any governmental agency having jurisdiction, any breach of any warranty.

## **8. Environmental Terms and Conditions**

8.1 For purposes of this Agreement, the following terms shall have the following meanings:

8.1.1 The term “Hazardous Material” or "Hazardous Materials" means any chemical, substance, material, controlled substance, object, product, by-product, residual, condition, solid or hazardous waste or any combination thereof, which is hazardous to human health or safety or the environment due to its ignitability, corrosivity, reactivity, toxicity, or other harmful or potentially harmful properties or effects. Hazardous Materials include, without limitation, any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related material, and substances defined as “hazardous substances,” “hazardous material,” “hazardous wastes,” or toxic substances” in, under or pursuant to any EH&S Law (as that term is defined below). “Hazardous Materials” shall also include oil or petroleum and petroleum products, asbestos and any asbestos containing materials, radon, polychlorinated biphenyls (PCBs), urea formaldehyde insulation, lead paints and coatings, and all of those chemicals, substances, materials, products, controlled substances, objects, conditions and waste or combinations thereof which now are, or become in the future, listed, defined or regulated in any manner by any EH&S Law (as that term is defined below).

8.1.2 "EH&S Law" means applicable federal, state, regional, county, municipal or local law, regulation, decision of the courts, ordinance, rule, code, order, directive, guideline, authorization or approval, permit, or permit conditions which, now or in the future, relate in any way to worker or workplace safety, EH&S conditions, EH&S quality or policy, or health and safety issues or concerns (including product safety). EH&S Law includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC, Section 9601 et seq.), the Resource Conservation and Recovery Act (42 USC, Section 6901 et seq.), the Federal Water Pollution Control Act (33 USC, Section 1251 et seq.), the Safe Drinking Water Act (42 USC, Section 300 et seq.), the California Safe Drinking Water and Toxic Enforcement Act of 1986 (aka Proposition 65), the Hazardous Materials Transportation Act (49 USC, Section 1801 et seq.), the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code, Section 25300 et seq.), the Toxic Substance Control Act (15 USC, Section 2601 et seq.) the California Hazardous Waste Control Law (California Health & Safety Code, Section 25100 et seq.), the Occupational Safety and Health Act (29 USC, Section 651 et seq.), the California Occupational Safety and Health Act (California Labor Code, Section 6300 et seq.), the Porter-Cologne Water Quality Control Act (California Water Code, Section 13000 et seq.), and applicable regulations or rules promulgated thereunder.

8.1.3 "Governmental Agency" shall mean any federal, state, regional, county, municipal or local government agency or other public or political body having the jurisdiction, mandate, authority or power to regulate, implement, coordinate, administer or enforce any EH&S Law.

8.2 Interconnector agrees to use, and agrees that it shall require each of its subcontractors, if any, to use only personnel who are qualified and properly trained and who possess every license, permit, registration, certificate or other approval required by any applicable EH&S Law or Governmental Agency to enable such personnel to perform their work involving any part of Interconnector's obligations under this Agreement.

- 8.3 Interconnector agrees that all materials and equipment to be supplied or used by Interconnector or its subcontractors, if any, in the performance of its obligations under this Agreement, including, but not limited to, vehicles, loading equipment, and containers, shall be in good condition and fit for the use(s) for which they are employed by Interconnector or its subcontractor, if any. Interconnector further agrees that none of the materials to be supplied or used by Interconnector and its subcontractors, if any, in the performance of its obligations under this Agreement shall contain asbestos or asbestos-containing materials, unless feasible alternatives or commercially reasonable replacements do not exist or are not available. Such materials and equipment shall at all times be maintained, inspected and operated as required by applicable EH&S Law. Interconnector further agrees that all licenses, permits, registrations and certificates or other approvals required by any EH&S Law or Governmental Agency shall be procured and maintained for such materials and equipment at all times during the use of the same by Interconnector or its subcontractors, if any, in the performance of any of Interconnector's obligations under this Agreement.
- 8.4 Interconnector specifically agrees that in the performance of its obligations under this Agreement, Interconnector shall at all times fully comply with and cause each of its subcontractors, if any, to fully comply with all applicable EH&S Laws. Interconnector shall immediately inform SoCalGas of any conflict between any EH&S Law and any SoCalGas standard practice or description of any of Interconnector's obligations under this Agreement, but such duty to inform shall not relieve Interconnector of any liability or indemnity requirement for failure to comply with all applicable EH&S Laws. Interconnector further agrees that Interconnector shall obtain and maintain in effect at all times, and cause its subcontractors, if any, to obtain and maintain in effect at all times, at its sole cost and expense, all licenses, permits, registrations, certificates, and approvals required by any EH&S Law or by any Governmental Agency for the work undertaken by Interconnector or its subcontractors, if any, and in the performance of Interconnector's obligations under this Agreement.
- 8.5 All Hazardous Materials used in connection with the obligations required under this Agreement shall be promptly and properly managed, containerized, stored, removed, transported and disposed of by Interconnector in accordance with all applicable EH&S Law.
- 8.5.1 Without in any way limiting the foregoing, Interconnector shall not, under any circumstances, cause or permit the

spillage, discharge, emissions, or release of any Hazardous Materials in the performance of Interconnector's obligations under this Agreement. If spillage, discharge, emission, or release should accidentally occur through Interconnector's actions or the actions of its employees, officers, representatives, contractors or subcontractors, then Interconnector shall immediately notify SoCalGas and take such actions in accordance with Section 8.8 below. Furthermore, Interconnector is absolutely prohibited from creating, disposing, recycling, treating, releasing or handling any kind of Hazardous Materials at, on or within any SoCalGas-owned or operated facility or property.

- 8.6 In connection with its performance under this Agreement, Interconnector shall not store any Hazardous Materials for periods in excess of applicable site storage limitations imposed by EH&S Law, other laws or SoCalGas' standard practices, whichever shall be more restrictive. Interconnector shall take, at its expense, all actions necessary to protect third parties, including, without limitation, SoCalGas' tenants, employees, and agents, from any exposure to, or hazards of, Hazardous Materials which are associated in any manner with any of Interconnector's obligations under this Agreement, including, but not limited to, site soils and/or groundwater contamination while they are, or should be, under Interconnector's control, as well as any discharges, releases, and spills of such Hazardous Materials. Furthermore, Interconnector may not store any kind of Hazardous Materials, at, on or within any SoCalGas-owned or operated facility or property, without prior written authorization from SoCalGas, which authorization shall be limited solely to specific Hazardous Materials and quantities thereof identified in a list prepared by Interconnector, and solely to certain, specific SoCalGas facilities and properties identified in a list also prepared by Interconnector of where these Hazardous Materials will be stored.
- 8.7 Interconnector shall comply with all applicable EH&S Laws and the requirements of Governmental Agencies; however, Interconnector shall exert all efforts to reach and consult with SoCalGas' representative prior to making any report to Governmental Agencies pursuant thereto and shall follow SoCalGas' representative's instructions so long as they are consistent with Interconnector's legal obligations.
- 8.8 In the event of any unauthorized release of a Hazardous Material by Interconnector, Interconnector shall perform the following actions:

- (a) Take all reasonable steps necessary to stop and contain said release;
- (b) Make any report of such release as required under EH&S Law;
- (c) Clean up such release as required by the applicable Governmental Agency.

8.9 Interconnector shall immediately notify SoCalGas' representative of the following upon the occurrence of any unauthorized release of Hazardous Material in connection with Interconnector's obligations under this Agreement:

- (a) A description of the release;
- (b) The identification of the Hazardous Material and the volume released;
- (c) Death of any person;
- (d) Property damage;
- (e) Any communication from any Governmental Agency that alleges that Interconnector is not acting in compliance with EH&S Law;
- (f) Any communication from any Governmental Agency that affects any permits or licenses necessary to perform Interconnector's obligations under this Agreement.

8.10 Within 36 hours of the release covered by this Agreement, Interconnector shall submit to SoCalGas' representative a written report, in a format required by SoCalGas, describing in detail any event of any release of a Hazardous Material. Such report shall include the following information:

- (a) Name and address of Interconnector and any subcontractor(s) involved;
- (b) Name and address of Interconnector's commercial and environmental liability insurance carrier;
- (c) Name and address of any injured or deceased persons, if applicable;
- (d) Name and address of any property damage, if applicable;
- (e) A detailed description of the release including the identification of the Hazardous Material, the date and time of the release, the volume released, and the nature of any environmental contamination;
- (f) A determination of whether any of SoCalGas' personnel, equipment, tools or materials were involved;
- (g) A detailed description of all reports made to any Governmental Agency, and a description of the actions taken to respond to the release.

- 8.11 Interconnector shall NOT:
- (a) Transport any Hazardous Material that SoCalGas generated for purposes of treatment, storage, recycling and/or disposal or
  - (b) Conduct any treatment, storage, recycling and/or disposal of any SoCalGas generated Hazardous Material unless specifically authorized by SoCalGas in writing to perform such activities. If Interconnector is authorized by SoCalGas to perform such activities then the following terms and conditions shall apply.
- 8.11.1 Interconnector shall not transport any SoCalGas generated Hazardous Material to any treatment, storage, recycling and/or disposal facility (hereinafter called "TSDF") not authorized by SoCalGas in writing. Prior to transporting SoCalGas generated Hazardous Material in each case, Interconnector shall confirm that the TSDF has procured and maintained in effect all licenses, permits, registrations, certificates or other authorizations required by any EH&S Law or Governmental Agency to lawfully receive, handle, transport, store, treat, recycle, incinerate, dispose of, or otherwise manage or use such Hazardous Material. Interconnector shall not transport any SoCalGas generated Hazardous Material to any TSDF which is unable or fails to provide such confirmation and Interconnector shall immediately notify SoCalGas. SoCalGas reserves the right at any time, in SoCalGas' sole discretion, to cancel its authorization of any TSDF by written notice to Interconnector.
- 8.11.2 SoCalGas shall, when required by EH&S Law, provide Interconnector with a complete and executed Hazardous Waste Manifest or other shipping documentation for SoCalGas generated Hazardous Material to be transported for treatment, storage, recycling and/or disposal. Interconnector's transportation, recycling, treatment, storage, and/or disposal of any such Hazardous Material in accordance with this Agreement shall be documented by Interconnector utilizing, among other things, the Hazardous Waste Manifest tracking system or other records as required by EH&S Law, copies of which shall be provided to SoCalGas within ten (10) calendar days of shipment.
- 8.12 Upon taking possession of and transporting Hazardous Material conforming to SoCalGas' Hazardous Waste Manifest from SoCalGas' facility, or from any other place of transfer, or upon

accepting delivery of SoCalGas' Hazardous Material at an authorized TSDF, whichever circumstances are applicable, the title, risk of loss, and all other incidents of ownership to such Hazardous Material shall be transferred from SoCalGas and vested in Interconnector.

- 8.13 SoCalGas warrants that the Hazardous Waste Manifest(s) or other shipping document required by this Agreement and/or any EH&S Law to be prepared by SoCalGas shall properly identify the Hazardous Material to be transferred to Interconnector.
- 8.14 Interconnector shall provide the following to SoCalGas for each material which Interconnector furnishes under this Agreement:
- (a) A completed Material Safety Data Sheet (MSDS) for each product or substance which contains a Hazardous Material as defined herein; and
  - (b) A written statement for each material that is a Mixture or Trade Name Product which contains a Toxic Chemical subject to the reporting requirements of Section 313 or EPCRA (40 CFR Section 372 et seq.) including:
    - i. The name and associated CAS (Chemical Abstract Services Registry) number of the Toxic Chemical;
    - ii. The specific concentration at which each such Toxic Chemical is present in each such Mixture or Trade Name Product; and
    - iii. The weight of each such Toxic Chemical in each such Mixture or Trade Name Product.

## **9. Indemnification**

- 9.1 Interconnector shall indemnify, defend and hold SoCalGas, its current and future, direct and indirect parent company(ies), subsidiaries, affiliates and their respective directors, officers, shareholders, employees, agents, representatives, successors and assigns (hereinafter, collectively the "Indemnitees") harmless from and against any and all claims, actions, suits, proceedings, losses, liabilities, penalties, fines, damages, demands, causes of action, costs and expenses including, but not limited to, all reasonable consulting, engineering, attorneys (in-house and outside counsel) or other professional fees including disbursements, which Indemnitees, or any of them, may incur or suffer by reason of:
- (a) Any Hazardous Material brought onto or generated at the site by Interconnector (or anyone under or performing work on behalf of Interconnector) during the Interconnector's performance of its obligations under this Agreement;



- (b) The use, storage, transportation, processing or disposal of Hazardous Materials by Interconnector (or anyone under or performing work on behalf of Interconnector) during the Interconnector's performance of its obligations under this Agreement;
- (c) Any unauthorized release of a Hazardous Material;
- (d) Any enforcement or compliance proceeding commenced by or in the name of any Governmental Agency because of an alleged, threatened or actual violation of any EH&S Law;
- (e) Any action reasonably necessary to abate, remediate or prevent a violation or threatened violation by Interconnector (or anyone under or performing work on behalf of Interconnector) during the Interconnector's performance of its obligations under this Agreement of any EH&S Law; and/or
- (f) Any other cause of whatsoever nature, arising out of or in any way connected with Interconnector's performance or nonperformance of its obligations under this Agreement, and/or Interconnector's willful or negligent acts or omissions in connection therewith; except to the extent the same were caused by the sole negligence or willful misconduct or omissions of the Indemnitees, or any of them.

9.2 Interconnector's obligation to indemnify Indemnitees under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, penalty or benefits payable by or for Interconnector under any statutory scheme, including without limitation, any Workers Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts.

## **10. Miscellaneous**

- 10.1 The terms of the Agreement not superseded or changed by this Exhibit D shall be in full force and effect.
- 10.2 This Exhibit D shall become effective on the Effective Date provided at the beginning of the Agreement and, unless terminated earlier, continue until the "In Service Date" for Interconnector's Facilities.

IN WITNESS WHEREOF, the Parties hereto have caused this Exhibit D to the California Producer Interconnect Collectible System Upgrade Agreement to be duly executed in two (2) copies by their authorized representatives as of the Effective Day.

INTERCONNECTOR

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SOUTHERN CALIFORNIA GAS COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_