

METHANE MITIGATION PROJECT AGREEMENT

This Methane Mitigation Project Agreement (the “*Agreement*”) is made as of the day of ____ December, 2023, by and between Qnergy International Services LLC located at 300 West 12th Street, Ogden, Utah 84404 (“*Qnergy*”), and Weber County, located with headquarters at Weber Center, 2380 Washington Blvd; Ogden, Utah 84401 (“*Weber County*”). Qnergy and Weber County are referred to herein together as the “*Parties*” and singly as a “*Party*”.

RECITALS

WHEREAS, Weber County owns the Landfill (as further defined herein). Weber County remains responsible for post-closure care of the Landfill, which Landfill closed in 1996. Weber County owns the existing landfill gas collection system and has the exclusive rights, title, and ownership of all environmental attributes associated with landfill gas. Weber County does not collect and destroy landfill gas from the Landfill, rather any landfill gas generated is emitted to the atmosphere uncontrolled.

WHEREAS, the Parties entered a Qnergy Beta Test Agreement, dated July 11, 2023 to allow Qnergy to install the Qnergy PowerGen 5650 – Landfill Gas (the “*Product*”) at the Site for limited purposes, such as testing, operation, evaluation, demonstration, etc. Pursuant to the Qnergy Beta Test Agreement, Qnergy installed and commenced testing, operation, evaluation, and demonstration of the Product.

WHEREAS, the Parties have agreed to replace the Qnergy Beta Test Agreement with this Agreement in its entirety to allow Qnergy to develop, own and operate the Product together with a flare skid to collect and destroy more landfill gas to reduce greenhouse gas emissions thereby creating carbon offset credits herein.

WHEREAS, Qnergy shall bear all financial investments in and costs of the Methane Mitigation Project and provide compensation to Weber County based upon the creation and sale of carbon offset credits from the destruction of greenhouse gas emissions contained in landfill gas.

WHEREAS, to carry out the purposes of the Methane Mitigation Project, Weber County wishes to lease to Qnergy and Qnergy wishes to accept from Weber County, land within or adjacent to the Landfill on which Qnergy may own, construct, operate and maintain the Methane Mitigation Project, together with other appurtenant rights.

NOW THEREFORE, in consideration of the premises and mutual covenants set forth herein and subject to the terms and conditions hereof, the Parties hereby agree as follows:

Article 1. Definitions

Capitalized terms when used herein shall have the meanings set forth below:

“Access and Performance Easements” shall have the meaning set forth in Section 2.2 hereof.

“Agreement” means this Agreement, including all exhibits and schedules hereto, as the same may be amended from time to time.

“Applicable Laws” means any act, statute, law, regulation, permit, license, ordinance, rule, judgment, order, decree, or written directive, guideline or policy (to the extent mandatory) or any similar form of decision or determination by any governmental authority with jurisdiction over the LFGCS, the Landfill, the Methane Mitigation Project or the performance of the work hereunder and the transaction contemplated hereunder.

“Carbon Offset Credits or Carbon Credits” means the reductions in greenhouse gas (GHG) emissions resulting from the destruction or utilization of landfill gas at eligible landfills.

“Contingent Payments” shall have the meaning set forth in Section 5 hereof.

“Contract Year” means every twelve (12) month period which begins at 12:01 a.m. Mountain Standard Time on January 1 and on every anniversary thereof during the Term.

“Day” means a calendar day.

“Effective Date” means the date on which both Parties have executed this Agreement.

“Environmental Attributes” means those aspects, claims, characteristics and benefits that can be used to (1) claim responsibility for the reduction of emissions and/or pollutants, (2) claim ownership of emission and/or pollution reduction rights, and (3) claim reduction or avoidance of emissions or pollutants. Environmental Attributes also includes all attributes of an environmental or other nature including but not limited to allowances, certificates, RECs, RINs or other green power price premiums or similar constructs generated by or attributable to the Project by virtue of its classification as a renewable energy project under Applicable Laws, emissions credits and all other credits, offsets, tradable renewable certificates, and all similar rights issued, recognized, created or otherwise arising from use or disposition of the Landfill Gas delivered to or collected by Qnergy, including but not limited to the generation and/or sale of electricity at the Project using Landfill Gas, the production of the annual energy or

other energy products as a by-product of generating electricity at the Project, and the destruction of such Landfill Gas.

“Force Majeure” means acts of God, strikes, lockouts or other industrial disturbances, epidemics, landslides, lightning, earthquakes, fires, storms, hurricanes, floods, high-water washouts, acts of the public enemy, wars, blockades, insurrections, riots, arrests and restraints by governments, civil disturbances, catastrophic events such as explosions, breakage or accident to machinery or lines of pipe caused by the foregoing and governmental actions such as the enactment of statutes, laws or regulations frustrating the purpose of this Agreement, not within the control of the Party claiming Force Majeure and which, by the exercise of reasonable diligence, such Party is unable to prevent or overcome.

“Hazardous Materials” means material or substance which is (i) designated as a "hazardous substance" pursuant to Section 311 of the federal Water Pollution Control Act (33 U.S.C. Section 1151 et seq.), (ii) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6903 et seq. (42 U.S.C. Section 6903), (iii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601), (iv) regulated under the Toxic Substances Control Act of 1976, or (v) regulated by the laws of the Commonwealth of Massachusetts, and (vi) all of the foregoing, as amended from time to time.

“Landfill” means the parcel(s) of real property encompassing the Weber County Landfill located at located at 2599 A Avenue, Ogden Utah, as more particularly described in Attachment A hereto.

“Landfill Gas” means the landfill gas generated within the Weber County Landfill.

“Landfill Gas Collection System” or **“LFGCS”** means the network of gas collection wells, interconnecting pipes, valves, probes, sensors, monitoring equipment, filters, meters, and any additional equipment installed at or on the Landfill by Weber County and used for the purpose of the collection of Landfill Gas. The LFGCS shall include any additions or modifications to the LFGCS that may be installed from time to time.

“Methane Mitigation Project” shall mean the Qnergy PowerGen 5650 – Landfill Gas and flare skid methane collection and destruction system owned by Qnergy and located on the Site for the generation of Landfill Gas-powered electricity and destruction of Landfill Gas in a flare.

“Net Revenues” means the actual cash revenues received by Qnergy through the sales of Carbon Credits less reimbursement for construction costs, operating costs, and Carbon Offset Credit creation costs (including costs for preparation, validation and verification of plans and monitoring reports), and any sales taxes and any

transactions fees, commissions, or delivery charges associated with the sale of Carbon Offset Credits.

“*Permits*” shall mean all permits, authorizations, waivers, variances, licenses, approvals or similar orders of or from any federal, state or local government authority, agency or any body having jurisdiction over the matter in question.

“*Product*” shall have the meaning set forth in the preamble.

“*Site*” shall mean the premises within the Landfill as set forth in Attachment B hereto (the “*Site*”) for the sole purpose of owning, installing, operating and maintaining the Methane Mitigation Project set forth in Section 2.1 hereof.

“*Site Lease*” shall have the meaning set forth in Section 2.1 hereof.

“*Term*” shall have the meaning set forth in Section 4.1 hereof.

Article 2. Grant Of Property Rights

- 2.1 Site Lease. In consideration of the compensation herein stipulated to be paid by Qnergy, Weber County does hereby lease unto Qnergy the Site. The leasehold estate created by this Section is referred to as the “*Site Lease*”. Weber County reserves the right to enter the Site for the purpose of inspecting the Methane Mitigation Project.
- 2.2 Access and Performance Easements. In support of the Methane Mitigation Project, Weber County hereby grants to Qnergy a non-exclusive easement upon the Landfill, appurtenant to the Site, for reasonable ingress and egress to the Site, for monitoring, adjusting, and repairing wellheads on the existing LFGCS, and for taking of all actions required or allowed under this Agreement or any permit or authorization governing the Methane Mitigation Project (the “*Access and Performance Easements*”). Weber County further agrees to make any filings required with the Weber County Recorder’s Office or other relevant government entity in order to properly establish the Access and Performance Easements.
- 2.3 Nature of Site Lease and Easements. The Site Lease creates a leasehold estate of Qnergy in the land constituting the Site. The Access and Performance Easements are appurtenant to the Site Lease. The Site Lease and Access and Performance Easements shall run with the land and shall be binding on any successor owners of real property burdened by the Site Lease and Access and Performance Easements.
- 2.4 Warranty of Title and Quiet Enjoyment. Weber County warrants that: (i) Weber County owns the Site and the Landfill in fee simple and has the full right to enter into and perform under this Agreement, and (ii) the Site and the Landfill are free of any prior liens or encumbrances that would interfere with Qnergy’s use of the Site Lease and Easements. Weber County covenants that Qnergy, so long as Qnergy

pays the Contingent Payments and observes and keeps the covenants of this Agreement on its part to be kept, shall lawfully and peaceably hold, occupy and enjoy the Site and receive the benefits of the Access and Performance Easements during the Term hereof. Qnergy acknowledges that the post-closure maintenance of the Landfill is subject to Applicable Law and Weber County's permits and approvals pertaining to the Landfill.

2.5 Title to Methane Mitigation Project. Weber County and Qnergy agree that, subject to the terms and conditions of this Agreement, the Methane Mitigation Project shall be and remain the personal property of Qnergy and shall at no time become a fixture with respect to the Site and Weber County shall post notice thereof at the Landfill in a manner satisfactory to comply with Utah law. Until termination of the Term, title to any Methane Mitigation Project situated on the Site, and any alteration, change or addition thereto, shall remain solely in Qnergy.

2.6 Liens and Encumbrances.

- a) Liens of Weber County. Weber County shall keep the Site and the Landfill free from, and shall remove, any prior liens or encumbrances that would interfere with the exercise of the Site Lease and Easements, except that Weber County shall not be required to remove any lien or encumbrance that may be filed against, or otherwise be applicable to, the Site Lease and Easements that result from any action or omission on the part of Qnergy.
- b) Liens of Qnergy. Qnergy shall keep the Site and the Landfill free from and shall remove all liens and encumbrances that may be filed against, or otherwise be applicable to, the Site, Site Lease and Easements.

Article 3. Use of Site; Development and Operation of the Methane Mitigation Project

3.1 Uses. Qnergy shall use the Site only for the construction, installation, operation and maintenance of the Methane Mitigation Project together with any equipment for the collection, compression, treatment, processing, metering, interconnection to the existing LFGCS and transportation of Landfill Gas and for any other use necessary, appropriate, or helpful for Qnergy's performance of its obligations. Qnergy shall not make or suffer or permit others to make or suffer any unlawful, improper, offensive, or other use of the Site. Qnergy may place such signs as may be reasonably appropriate upon the Site, with prior consent of Weber County, to identify and give notice that such Site is under the control of Qnergy.

Qnergy shall use the non-exclusive easement upon the Landfill only for reasonable ingress and egress to the Site, for monitoring, adjusting, and repairing wellheads on the existing LFGCS, and for taking of all actions required or allowed under this Agreement or any permit or authorization governing the Methane Mitigation Project.

- 32 Legal Compliance. In constructing, retrofitting, installing, equipping, operating, and maintaining the Methane Mitigation Project, Qnergy shall use reasonable care and diligence and shall perform all work with respect thereto in a proper and workmanlike manner and in strict accordance with all Applicable Laws, all Permits received by Qnergy, and all Permits received by Weber County copies of which Weber County shall provide to Qnergy upon Qnergy's request.
- 33 Methane Mitigation Project Plans. The Parties shall work together during the design and construction of the Methane Mitigation Project to ensure system compatibility. Qnergy will provide Weber County with final draft plans for the Methane Mitigation Project, and any subsequent modifications thereto for review and comment. Qnergy shall consider any comments made by Weber County within fourteen (14) days of Weber County's receipt of such draft plans with respect to potential aesthetic appearance, noise, odor and sound impacts, but shall not be required to make any changes suggested by Weber County that would in Qnergy's judgment render the Project uneconomic. Qnergy at any time may modify or retrofit the Methane Mitigation Project to improve performance, comply with changing laws, or for any other reason provided that Qnergy shall provide draft plans showing such modification or retrofit to Weber County, and shall take into account any comments made by Weber County within fourteen (14) days of Weber County's receipt of such draft plans with respect to aesthetic appearance, noise, odor, and sound impacts.
- 34 Nature of Project. At no cost to Weber County, Qnergy is solely responsible for the funding, developing, installing, operating, and maintaining the Methane Mitigation Project. Qnergy shall undertake all costs and efforts to create Carbon Offset Credits and monetize their value.
- 35 Mutual Assistance. Upon request, the Parties shall, at no cost to the other, use reasonable efforts to support and assist one another in the acquisition of any required Permit or authorization. Such support shall include, without limitation, participation in regulatory proceedings and provision of information concerning each Party's operations, and making its key personnel, engineering consultants and other advisors reasonably available.

Article 4. Term

- 4.1 Term. The term of this Agreement shall commence on the Effective Date of the Agreement and continue for a period of ten (10) years (the "**Term**"). Qnergy may at its option extend the Term for two (5) five-year periods by written notice to Weber County no less than sixty (60) Days before the expiration of the initial Term.
- 4.2 Removal of Methane Mitigation Project at End of Term. Upon the expiration or upon earlier termination of this Agreement, Weber County and Qnergy agree that Qnergy shall have a period of one hundred eighty (180) Days commencing on the date of expiration

or termination to remove from the Site such improvements as it may have placed on the Site unless Weber County exercises its Option to Purchase.

4.3 Weber County Option to Purchase. At the end of the Term including any extension or early termination by Qnergy, Weber County shall have the option to purchase the Methane Mitigation Project from Qnergy. Weber County shall have 30-days from the end of the Term or early termination to provide Qnergy notice of its exercise of the Option. Qnergy will provide its standard service and warranty coverage for the equipment starting at transfer of title of the Methane Mitigation Project. In return for the transfer of title, and issuance of a warranty, Weber County will pay Qnergy a maximum of 50% of the original actual cost of the hardware as documented by Qnergy.

Article 5. Compensation.

In consideration of the rights granted by Weber County to Qnergy hereunder, including the Lease and the Access and Performance Easements, Qnergy shall pay Weber County 20-percent of Net Revenues received by Qnergy from sale of Carbon Offset Credits, computed annually (each such payment a “*Contingent Payment*”). Contingent Payments shall be made annually in arrears by February 15 for the preceding calendar year. Qnergy shall provide Weber County with an annual accounting showing how Contingent Payment and Net Revenues for a Contract Year were calculated on an annual basis.

Carbon Offset Credits and hence the basis for the Contingent Payments to Weber County depend entirely on market, regulatory and other factors beyond Qnergy’s control. **QNERGY MAKES NO WARRANTY, EXPRESS, IMPLIED OR STATUTORY, AS TO THE DESIGN, USE, AND FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR ACCURACY OF THE PROJECT OR THAT THE PROJECT WILL BE ECONOMICAL OR THAT ANY CONTINGENT PAYMENTS WILL BE MADE.**

Article 6. Environmental Benefits

6.1 Exclusive Right to Landfill Gas. During the Term, Qnergy shall have the exclusive right to all Landfill Gas extracted from the Landfill. Qnergy shall also have exclusive access and use of the existing landfill gas collection system within the Landfill.

6.2 Carbon Offset Credits. Weber County assigns to Qnergy, during the Term, the exclusive rights, full title, claim and ownership of all Environmental Attributes and Carbon Offset Credits associated with the collection and destruction of Landfill Gas, by the Methane Mitigation Project. Weber County acknowledges and agrees that Qnergy shall create Carbon Offset Credits by destroying greenhouse gas (GHG) emissions through the Methane Mitigation Project, and that, during the Term, Qnergy shall have uncontested ownership and legal rights to the GHG emissions reductions and Carbon Offset Credits.

Article 7. Taxes

7.1 Income Taxes. Each Party shall be responsible for any federal, state and local taxes based upon or measured by its income, and any franchise taxes based upon its corporate existence.

7.2 Property Taxes. Qnergy shall be responsible for any taxes and assessments against the Site as and when they become due. Qnergy shall pay all taxes (real and personal) and assessments allocable to the Methane Mitigation Project, the Site Lease or Easements.

Article 8. Default and Termination

8.1 Weber County's Right to Terminate. Weber County may terminate this Agreement by written notice to Qnergy upon the occurrence of any of the following:

(a) Qnergy fails to perform its obligations under this Agreement due to an event of Force Majeure which lasts longer than twelve (12) months;

(b) Qnergy fails to construct and commence commercial operation of the Methane Mitigation Project within three (3) years after Qnergy obtains all permits necessary for the construction of the Methane Mitigation Project, or within five (5) years after the Effective Date, whichever occurs first;

(c) Weber County suffers the actual imposition of any fines or penalties imposed by a federal, state or local governmental agency or authority caused solely by Qnergy's violation of its own permits, and Qnergy fails to pay or successfully eliminate such fines or penalties, or indemnify Weber County from and against such fines or penalties, within thirty (30) days of receiving written notice from Weber County;

(d) Qnergy fails to make any undisputed payment due hereunder within forty (40) Days of when due; or

(e) Qnergy permanently abandons the Methane Mitigation Project after its initial commercial operation (Qnergy shall be deemed to have permanently abandoned the Methane Mitigation Project upon the failure of Qnergy to operate the Methane Mitigation Project for a continuous period of twelve (12) months).

This Agreement shall terminate ninety (90) Days after Qnergy's receipt of Weber County's notice that the circumstances under any of subparagraphs (a) through (e).

8.2 Qnergy's Right to Terminate. Qnergy may terminate this Agreement by written notice to Weber County upon the occurrence of any of the following:

(a) Qnergy determines in its sole discretion that the Methane Mitigation Project uneconomic to construct and/or operate;

(b) Qnergy is unable to obtain all necessary Permits or is unable to completely install the Methane Mitigation Project; or

(c) If the Methane Mitigation Project is partially or totally damaged or destroyed.

This Agreement shall terminate thirty (30) Days after Weber County's receipt of Qnergy's notice that any of the events described above has occurred.

Article 9. Insurance

- 9.1. Qnergy's Insurance. At all times during the Term, to the extent commercially available, Qnergy shall maintain the insurance coverages with an insurance company reasonably acceptable to Weber County:
- 9.2. Weber County's Insurance. At all times during the Term, to the extent commercially available, Weber County shall maintain the insurance coverages with an insurance company reasonably acceptable to Qnergy.
- 9.3. Insurance Certificates. Each Party hereto shall provide the other Party certificates of insurance to evidence that the required insurance coverage is always in effect during the Term.

Article 10. Indemnity

10.1 General Indemnities. Subject to Sections 10.2 and 10.3, each Party shall indemnify and hold the other Party, its successors and assigns, its directors, officers, employees, agents, representatives, co-ventures, tenants, contractors, or servants, harmless from and against any and all claims, penalties, demands, suits, actions, proceedings, liability, damages or losses ("**Losses**") of whatsoever nature including reasonable attorneys' fees for injury or death to person(s) or for damage or loss to or of property arising from the actions of the indemnifying party. **IT IS THE SPECIFIC AND EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING INDEMNITY OBLIGATIONS APPLY REGARDLESS OF WHETHER THE LIABILITY, LOSS OR DAMAGE IS CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY THE INDEMNIFYING PARTY OR ITS AFFILIATES' NEGLIGENCE OR GROSS NEGLIGENCE; PROVIDED, HOWEVER, THE FOREGOING INDEMNITY OBLIGATIONS WILL NOT APPLY TO THE EXTENT SUCH INDEMNITY OBLIGATIONS ARE LIMITED BY LAW, INCLUDING, BUT NOT LIMITED TO, THE GOVERNMENT IMMUNITY ACT OF UTAH.**

10.2 Environmental Indemnities.

(a) Qnergy. Qnergy will not permit any of its agents, contractors, or employees to, store, use, release, discharge, or deposit on any portion of the Site any Hazardous Materials except in accordance with Weber County's rules and regulations pertaining to the Landfill, and Applicable Laws. Qnergy shall indemnify and hold harmless Weber County, its officials, officers, members, employees, agents, and

contractors from and against any claims, losses, liability, damages, penalties, fines, costs, and expenses based on any failure of Qnergy or its agents, contractors, or employees to adhere to the terms of this paragraph (a), and shall undertake all measures necessary and appropriate to remedy any such failure in accordance with all Applicable Laws.

(b) Weber County. The Parties agree that solely by virtue of its entry upon the Site and the taking of actions authorized by or consistent with this Agreement, neither Qnergy nor any of its agents, contractors, employees, directors, officers or members shall have, or shall be deemed to have, in any way participated in the operation of the Landfill or assumed any liability or obligation associated with materials of any type or description (including Hazardous Materials) deposited, stored, or received on or within the Landfill by Weber County or any predecessor owner or operator. Weber County will defend, indemnify, and hold harmless Qnergy and its officers, directors, employees, agents, contractors, and any lender(s), from and against any claims, losses, liability, damages, penalties, fines, costs, and expenses to the extent based on (i) the presence of any Hazardous Materials in, on, or within the Landfill or the Site except to the extent that the presence of such Hazardous Materials is attributable to lender(s) or Qnergy or their, employees, officers, directors, agents, subcontractors or contractors; or (ii) the failure of the Landfill, Site or Weber County to comply with any Applicable Laws regarding the regulation of the environment, disposition of materials, or operation and maintenance. Weber County will not defend, indemnify, or hold harmless Qnergy or its officers, directors, employees, agents, contractors, or any lender(s) for the failure of Qnergy or its lender(s) to comply with any Applicable Laws regarding the regulation of the environment, disposition of materials, or operation and maintenance of the Methane Mitigation Project.

10.3. Survival. The provisions of this Article 10 shall survive the termination, cancellation, or expiration of this Agreement.

10.4. General. The indemnity obligations contained in this Section 10 are an integral part of the Agreement and have been knowingly negotiated by both Parties. **THE INDEMNITY OBLIGATIONS CONTAINED IN THIS SECTION 10 WILL NOT BE NEGATED OR REDUCED BY VIRTUE OF EITHER PARTY'S INSURANCE CARRIER'S DENIAL OF INSURANCE COVERAGE OF THE OCCURRENCE OR EVENT WHICH IS THE SUBJECT MATTER OF THE CLAIMS OR REFUSAL TO DEFEND THE INDEMNIFYING PARTY.**

Article 11. Representations and Warranties.

11.1 Weber County's Representations and Warranties. Weber County represents and warrants to Qnergy as follows:

- i. Weber County has duly authorized, executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation of Weber County, enforceable against Weber County in accordance with its terms;

- ii. Neither the execution nor the delivery by Weber County of this Agreement, nor the performance by Weber County of its obligations hereunder conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to it, or materially conflicts with, violates or results in a breach of any term or condition of any order, judgment or decree, or any agreement or instrument to which Weber County is a party or by which Weber County or any of its properties or assets are bound, or constitutes a default thereunder;
- iii. No approval, authorization, order, consent, declaration, registration or filing with any federal, state or local governmental authority is required for the valid execution and delivery by Weber County of this Agreement;
- iv. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending against Weber County, in which an unfavorable decision, ruling or finding would materially adversely affect the performance by Weber County of its obligations hereunder, or that, in any way, would materially affect the validity or enforceability of this Agreement; and

11.2 Qnergy Representations and Warranties. Qnergy represents and warrants to Weber County as follows:

- i. Qnergy is a corporation with full legal right, power and authority to enter into and to fully and timely perform its obligations hereunder;
- ii. Qnergy has duly authorized, executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation, enforceable against Qnergy in accordance with its terms;
- iii. Neither the execution nor delivery by Qnergy of this Agreement, nor the performance by Qnergy of its obligations hereunder conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to it, or materially conflicts with, violates or results in a breach of any term or condition of any order, judgment or decree or any agreement or instrument to which Qnergy or any of its affiliates or members is a party or by which Qnergy or its affiliates or members or any of their properties or assets are bound, or constitutes a default thereunder;
- iv. No approval, authorization, order, consent, declaration, registration or filing with any federal, state or local governmental authority is required for the valid execution and delivery of this Agreement by Qnergy; and
- v. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending against Qnergy or any of its affiliates or members, in which an unfavorable decision, ruling or finding would materially adversely affect the performance by Qnergy of its obligations hereunder, or that,

in any way, would materially adversely affect the validity or enforceability of this Agreement.

11.3 Representations and Warranties - General. Each Party acknowledges that its representations and warranties as set forth above will be relied upon by the other in entering and performing under this Agreement. The representations and warranties contained in this Article 11 shall survive the termination of this Agreement. Qnergy and Weber County each shall: (i) indemnify and hold the other harmless from any loss, damage, liability, and reasonable expense, including the reasonable costs to defend claims for such, arising, or in any manner resulting, from any failure in connection with the representations and warranties made by one to the other; and (ii) satisfy all judgments that may in connection therewith be incurred by or rendered against the other, including without limitation against any property assigned or transferred to the other hereunder; provided, however, that neither indemnity shall be required if the claim is based on an action, omission, fault, breach or negligence of the Party requesting indemnity.

Article 12. Miscellaneous

12.1 Recording. Either Party may file for record with the Registry of Deeds of the county or counties in which the Landfill is located either this Agreement or a recordable notice or memorandum of this Agreement. The Parties shall take such actions and execute such additional documents, including copies of this Agreement or a short form of this Agreement as may be required to record evidence of this Agreement.

12.2 Notices. All notices, waivers, demands, requests or other communications required or permitted hereunder shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received (a) if delivered by email to the address specified below with a read receipt requested, (b) if delivered by private courier service or messenger, when delivered as evidenced by a receipt issued by the private courier service or messenger, (b) if mailed by certified mail, return receipt requested, upon receipt as shown in the receipt issued by the United States postage service addressed to the Party to be notified as following:

Qnergy: Qnergy International Services LLC.
300 West 12th Street,
Ogden, Utah 84404
Attention: Asaf Vos
Email: Asaf.Vos@qnergy.com

Weber County: Weber County
Weber Center
2380 Washington Blvd, Suite 250;
Ogden, Utah 84401

Attention: Community Development Director
Email: swilkinson@webercountyutah.gov

or to such other address as designated by either Party from time to time during the Term hereof.

12.3 Waivers. One or more waivers or any covenants, condition or agreement herein contained shall not be construed as a waiver of a further breach of the same covenant, condition or agreement or of any act by Qnergy requiring Weber County's consent or approval shall not be deemed to waive or render unnecessary Weber County's consent or approval to any subsequent similar act by Qnergy.

12.4 Entire Agreement. This instrument contains the entire and exclusive agreement between the Parties that supersede and terminate all prior or contemporaneous arrangements, understandings and agreements, whether oral or written. This Agreement may not be amended or modified, except by a writing executed by Weber County and Qnergy.

12.5 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of Utah. In the event any provision of this Agreement shall be determined to be invalid or unenforceable under applicable law such provision shall, insofar as possible, be construed or applied in such manner as will permit enforcement; otherwise this Agreement shall be construed as if such provision had never been made part hereof.

12.6 Dispute Resolution. Except for the Parties' rights to terminate under Article 8 hereof, any dispute arising under this Agreement shall be resolved only in accordance with this Section 12.6. A dispute shall arise when one Party sends a written notice of dispute by certified mail, to the other Party. The Parties shall first attempt to resolve the dispute by informal negotiations. If the Parties cannot resolve the dispute within fourteen (14) Days of such written notice, the Parties shall submit the dispute to non-binding mediation by a mutually agreeable, neutral, and otherwise qualified mediator within fourteen (14) Days following the expiration of the period for informal negotiations. If the Parties fail to agree upon a mediator within such 14-Day period, any Party may request that the American Arbitration Association office in Ogden, Utah appoint a mediator and the Parties shall participate in the mediation. The period for mediation shall commence upon the appointment of the mediator and shall not exceed sixty (60) Days. Each of the Parties will bear its own costs of the mediation, and the Parties shall share equally the cost of the mediator. If the dispute is not resolved after the end of the period for mediation, either Party may bring a court action seeking damages or any other remedy at law or in equity, and each Party irrevocably consents to the exclusive jurisdiction of the courts of Weber County, Utah for the resolution of all disputes not previously settled in accordance with the preceding paragraph. Except as provided in Article 10, when indemnification applies,

each Party in any dispute shall pay its own costs and expenses (including legal fees and expenses) incurred in the prosecution or defense of such dispute.

12.7 Binding Effect. This Agreement, including the Site Lease and the Access and Performance Easements, shall be binding upon and inure to the benefit of all administrators, executors, personal representatives, heirs, successors, and permitted assigns of the Parties. Each assignee shall as a precondition to the other Party's consent execute such written instrument(s) as the other Party shall reasonably require evidencing the assignee's agreement to be bound by each and every term of this Agreement.

12.8 Severability. If any provision of this Agreement is unenforceable, the remaining provisions shall not be affected thereby but shall remain in full force and effect; provided, that the Parties shall attempt to amend this Agreement to attempt to return the Parties to materially the same position had no such provision been found unenforceable.

12.9 No Partnership. Nothing contained in this Agreement shall be construed to create any association, trust, partnership, or joint venture or impose a trust or partnership, duty, obligation, or liability or an agency relationship on, or with regard to, either Party. Neither Party hereto shall have the right to bind or obligate the other in any way or manner unless otherwise provided for herein.

12.10 No Parent or Personal Liability. Qnergy agrees that none of the directors, officers, employees, contractors, or agents of Weber County shall bear any personal liability whatsoever under this Agreement and that Qnergy shall look solely to Weber County for its remedies hereunder. Weber County agrees that none of the members, directors, officers, employees, contractors, or agents of Qnergy shall bear any personal liability whatsoever under this Agreement and that Weber County shall look solely to Qnergy for its remedies hereunder.

WHEREFORE, Weber County and Qnergy have set their hands and seals as of the date first set above.

**Board of County Commissioners
of Weber County**

By _____
Gage Froerer, Chair

ATTEST:

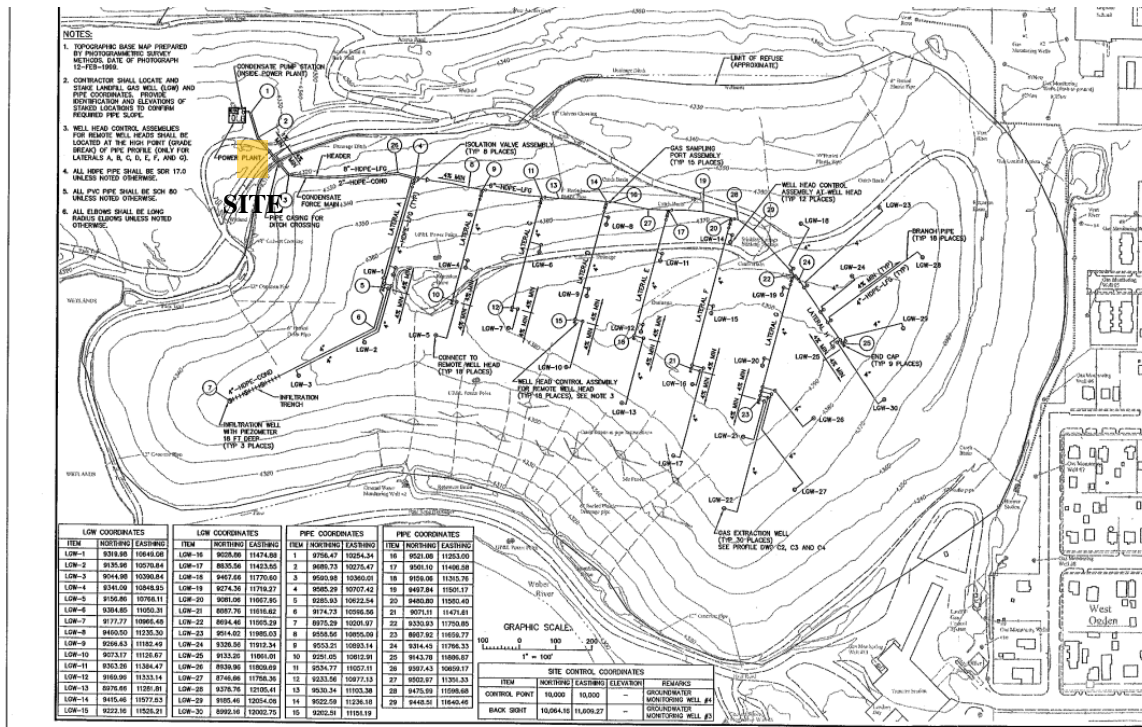
Weber County Clerk/Auditor

Qnergy:

By:  _____
Name: Ory Zik
Title: CEO

ATTACHMENT A

LANDFILL



ATTACHMENT B

SITE

