

MUTUAL NON-DISCLOSURE AGREEMENT

This MUTUAL NON-DISCLOSURE AGREEMENT (this "*Agreement*") is made as of the 31 th day of July 2013, by and between Recast Energy LLC, a Virginia Limited Liability Company located at 8730 Stony Point Parkway, Suite 100, Richmond, Virginia 23235 ("*Recast Energy*") and The University of Puerto Rico at Mayaguez, a government institution dedicated to higher education in Puerto Rico, created by Law Number 1 of January 20 1966, located at 259 Boulevard Alfonso Valdez, Mayaguez, Puerto Rico 00680, (the "*University*").

Preliminary Statement

Recast Energy and The University are prepared, but not obligated, to furnish each other with certain information relating to the matter described in Exhibit A, attached hereto and incorporated herein (the "*Transaction*"). Recast Energy and The University each understand the Disclosing Party's wishes to maintain the strictest confidentiality of such information and that such information is to be furnished to each other in reliance on the terms and conditions in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Recast Energy and The University agree as follows:

1. **Definitions.** As used in this Agreement, the following terms will have the following meanings unless the context requires otherwise:

(a) **Evaluation Material** means all information (whether provided in written, oral or any other form) concerning the Transaction furnished at any time to the Recipient Party by or on behalf of the Disclosing Party, together with all excerpts and analyses thereof, but does not include information that: (a) at the time of disclosure to the Recipient Party is or thereafter becomes generally available to the public, (b) became or becomes available to the Recipient Party on a non-confidential basis from a third party, provided that the Recipient Party did not have knowledge that such third party was breaching an obligation of confidentiality to the Disclosing Party or (c) was independently developed by Recipient Party. Nothing contained herein shall prohibit either Recast Energy or The University from disclosing its own Evaluation Material to other parties.

(b) **Recipient Party** means a person or entity that is given access to the Evaluation Material by the Disclosing Party pursuant to the terms of this Agreement. In accordance with the mutual nature of this Agreement, either Recast Energy or The University may act in the capacity of a Recipient Party.

(c) **Disclosing Party** means a person or entity that is giving access to the Evaluation Material to the Recipient Party pursuant to the terms of this Agreement. In accordance with the mutual nature of this Agreement, either Recast Energy or The University may act in the capacity of a Disclosing Party.

2. **Confidentiality and Use of Evaluation Material.** As a continuing condition to the Recipient Party being furnished with and having possession of Evaluation Material, the Recipient Party agrees to treat all Evaluation Material in strictest confidence in accordance with the

terms of this Agreement. The Recipient Party agrees not to use any portion of the Evaluation Material for any purpose or scope except as described in Exhibit A.

3. **Disclosure of Evaluation Material to Other Parties.** The Recipient Party agrees not to disclose any portion of the Evaluation Material to anyone other than the Recipient Party's employees, agents, officers, directors, lenders, investors, representatives, counsel or other professionals, in each case reasonably determined by the Recipient Party to have a need to have access to the Evaluation Material in connection with the Transaction. Disclosure will be made only to the extent necessary and solely for the purposes described in Exhibit A, and each of the receiving parties described in this Section will be advised of the existence and terms of this Agreement and agree to be bound by this Agreement by execution of a written acknowledgement incorporating the terms of the Agreement. The Recipient Party agrees that it is responsible for insuring that each of the receiving parties described in this Section complies fully with the terms of this Agreement. Recipient Party hereby acknowledges that the Evaluation Material disclosed by the Disclosing Party is not only of a confidential nature but may also be extremely sensitive to the Disclosing Party from a competitive standpoint and that any disclosure or unauthorized use thereof may cause irreparable harm and loss to the Disclosing Party. Recipient Party hereby further acknowledges and agrees that neither it nor its receiving parties described in this Section will use the Evaluation Material in any way that is detrimental to the Disclosing Party or would circumvent the business of the Disclosing Party, including, without limitation, for the establishment or assistance of a competing enterprise.

4. **Non-Disclosure of Related Information.** Except as required by legal process or applicable law (including without limitation, applicable tax and securities laws), or except on the advice of counsel, the Recipient Party will not disclose to any person without the prior consent of the Disclosing Party that: (a) the Evaluation Material has been made available to the Recipient Party, (b) the Recipient Party is evaluating or assisting the Disclosing Party with the Transaction, or (c) discussions or negotiations are taking place concerning the Transaction, or any of the terms, conditions or other facts with respect to the Transaction, including the status thereof.

5. **Disclosure Pursuant to Legal Process.** In the event the Recipient Party is requested or required (whether by subpoena, oral deposition, interrogatories, request for production of documents, administrative order or otherwise) to disclose any Evaluation Material or the fact that Evaluation Material has been made available to the Recipient Party, the Recipient Party will provide the Disclosing Party with prompt notice of such request or requirement, so that the Disclosing Party may seek, at its expense, an appropriate protective order so that the Disclosing Party may (in its reasonable exercise of discretion) waive compliance with the terms of this Agreement. In the absence of such protective order or waiver, the Recipient Party may disclose only that portion of the Evaluation Material as the Recipient Party is advised by counsel that it is legally required to be disclosed.

6. **Return of Evaluation Material.** The Recipient Party agrees that if it decides that it has no further interest in the Transaction or if the Disclosing Party so requests, the Recipient Party will return promptly to the Disclosing Party all written Evaluation Material provided by the Disclosing Party and all copies thereof made by the Recipient Party. The Recipient Party will not retain any copies, extracts or other reproductions of such Evaluation Material in whole or in part, except that the Recipient Party may retain one set of copies for its files. All documents, memoranda, notes and other writings including electronic documents prepared by the Recipient Party, and which are based on the information contained in the Evaluation Material, will be

destroyed, and such destruction will be certified in writing to the Disclosing Party by an authorized officer of the Recipient Party supervising such destruction, except that the Recipient Party may retain one set of copies for its files. All copies permitted to be retained by the Recipient Party pursuant to this Section 6 will remain subject to the other terms of this Agreement.

7. **Term of This Agreement.** This agreement shall be effective on the date of the signature and remain in effect for one year. The obligations of confidentiality and the agreements contained in this Agreement will survive and remain in effect until three years after the date hereof. Any claim by either party for a breach of this Agreement by the other party will survive the termination of this Agreement.

8. **No Representations.** Neither the Disclosing Party nor any of its employees, agents, officers, directors, lenders, investors, representatives, counsel or other professionals makes any representation or warranty as to the accuracy or completeness of the Evaluation Material. Neither the Disclosing Party nor any of its employees, agents, officers, directors, lenders, investors, representatives, counsel or other professionals will have any liability to the Recipient Party, to any of its employees, agents, officers, directors, lenders, investors, representatives, counsel or other professionals of the Recipient Party, or to any third parties resulting from the use of the Evaluation Material or for any other information (oral or written) provided or alleged to have been provided to them. Any information provided to the Recipient Party by the Disclosing Party or by any surveyors, architects, engineers, escrow agents, title companies, governmental authorities or any other person or entity retained or contracted by or on behalf of the Disclosing Party with respect to the Transaction which is relied upon by the Recipient Party shall not create or give rise to any liability of or against the Disclosing Party except as expressly and mutually agreed in a written agreement executed and delivered by the Disclosing Party and the Recipient Party and subject to such limitations and restrictions as may be specified therein.

9. **Other Restrictions Reserved.** The obligations of confidentiality and the agreements contained in this Agreement are in addition to, and not in limitation of, any other applicable legal restrictions upon the use and disclosure of the Evaluation Material.

10. **Indemnity.** The Recipient Party unconditionally agrees to indemnify the Disclosing Party and its employees, agents, officers, directors, lenders, investors, representatives, counsel or other professionals (each an "*Indemnified Party*") against, and to hold each Indemnified Party harmless from, any and all liabilities, obligations, losses, claims, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature (including without limitation, the reasonable fees and expenses of counsel) which may be suffered by, imposed on or incurred by any Indemnified Party as a result of the breach of any obligations under this Agreement by the Recipient Party, to the extent permitted by law.

11. **Injunctive Relief.** The Recipient Party recognizes and agrees that the covenants of the Disclosing Party contained in this Agreement are special, unique and of extraordinary character, and that in the event the Recipient Party engages in activities in breach or in violation of this Agreement, the Disclosing Party will be entitled to institute and prosecute proceedings in any court of competent jurisdiction to obtain damages, specific performance and/or injunctive relief for breach of this Agreement. Recipient Party further agrees to waive any requirement for the securing or posting of any bond in connection with the granting of any specific performance, injunctive or other equitable remedy and that such remedy will not be deemed to be the exclusive remedy for

breach of this Agreement, but shall be in addition to all other remedies available to the Disclosing Party at law or in equity. In all such cases pursuant to this Section, neither party will be entitled to all damages consequential to any such breach or violation. The reasonable fees and expenses of the non-breaching party's counsel and the other costs of such proceedings pursuant to this Section shall be borne by the breaching party.

12. **No Contract.** Each of the Parties agrees that, except with respect to their express agreements set forth in this Agreement, no contract or agreement regarding the Project will be deemed to exist between Recast Energy and The University unless and until a written definitive agreement relating to such a Project has been executed and delivered.

13. **Miscellaneous.**

(a) No failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico without regard to the Conflicts of Laws Principles thereof.

(c) Section or other headings contained in this Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Agreement.

(d) This Agreement may be executed in counterparts, each of which will be deemed an original document, but all of which will constitute a single agreement. Facsimile signatures will be deemed valid and binding to the same extent as original signatures.

(e) In the event that any term or provision of this Agreement or the application thereof to any person or circumstance is held invalid or unenforceable to any extent, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, will remain valid and enforceable to the fullest extent permitted by law.

(f) The terms and conditions set forth in this Agreement may be amended, modified or waived only by a separate writing signed by the parties expressly so modifying or waiving such agreement. Either party may terminate this agreement previous written notification to the other party, 30 days before the desire termination date.

(g) This Agreement embodies the entire understanding and agreement between the parties with respect to the subject matter hereof. It is expressly agreed that this Agreement supersedes any and all prior oral or written agreements between the parties.

(h) This Agreement will inure to the benefit of the parties and will be binding on the successors and assigns of the parties.

(i) Notices will be sent to the following mailing addresses or facsimiles.



To Recast Energy: Recast Energy LLC Attn: NDA Notice, 8730 Stony Point Parkway, Suite 100, Richmond, VA 23235 (mmarkee@recastenergy.com)

To Company: Office of the Director, Research and Development Center, University of Puerto Rico, Mayaguez Campus, Call Box 9000, Mayaguez, Puerto Rico 00680-9000 (directorcid@uprm.edu).

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed by their duly authorized officers as of the day and year captioned above.

Recast Energy LLC

By: 

Name: Brandon Ogilvie
Title: Chief Financial Officer

University of Puerto Rico
Mayagüez Campus

By: 

Name: Andrés Calderón Colón, Ph.D., P.E.
Title: Chancellor

Recommended by:


Walter Silva Araya, Ph.D.
Director, R&D Center

EXHIBIT A

Description of Transaction and Scope of Use of Evaluation Material

Recast Energy may disclose to The University, and The University may disclose to Recast Energy, materials used for the purpose of The University preparing fuel supply studies for Recast Energy and its investors and lenders for one or more biomass energy facilities in Puerto Rico (“*Project*”). Such Evaluation Material may include, but is not necessarily limited to, chemical or physical analysis of Project candidate fuels, Project energy/mass balance calculations, Project process flow diagrams, Project instrumentation diagrams, Project equipment specifications, Project vendor lists or criteria, Project emissions and solid waste data, Project site locations, Project or product technical specifications, Project financial models, Project financial statements, Project financing terms, Project commercial terms and contracts, Project feasibility studies and independent consultant reports, and identities of third party Project participants including developers, investors, lenders, consultants, contractors, customers, and suppliers (collectively, “*Evaluation Material*”).