

**RAW CARBONDIOXIDE  
SUPPLY AGREEMENT**

TOC GLYCOL COMPANY LIMITED

And

GENIUS INTEGRATED SOLUTIONS COMPANY LIMITED

Dated 11<sup>th</sup> September 2015

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## RAW CARBONDIOXIDE SUPPLY AGREEMENT

This Agreement is made and entered into as of the 11<sup>th</sup> day of September 2015 by and between Genius Integrated Solutions Company Limited having its principal place of business at 1467 Kanjanapisek Road, Bangkaenua, Bangkae, Bangkok 10160 hereinafter referred to as “Buyer” and TOC Glycol Company Limited, having its principal place of business at 555/1, Energy Complex, Building A, 15<sup>th</sup> Floor, Vibhavadi Rangsit Road, Chatuchak, Bangkok 10900 hereinafter referred to as “Seller”.

### Recitals:

- (A) Seller is a company who owns and operates its plant located at 9 Soi G12, Hemaraj Eastern Industrial Estate, Pakorn Songkhraorat Road, Tambon Maptaphut, Amphur Mueang Rayong, Rayong 21150 (the “Seller’s Plant”), which manufactures main product Ethylene Oxide (EO) and Ethylene Glycol (EG) and Raw Carbon Dioxide (CO2) as by product; and
- (B) Buyer is a company who owns and operates the purification plant of carbon dioxide (CO2), to be located inside Seller’s Plant, the terms and conditions of which as mutually agreed between the parties in writing; and
- (C) Buyer and Seller wish to enter into long term agreement pursuant to which Seller will sell the Product and Buyer will purchase the Product, all on the terms and conditions set out herein.

Therefore, the Parties agree to the terms and conditions as follows:

### 1) Definitions

For the purpose of this Agreement, unless the context otherwise requires, the following terms shall have the meanings defined below:

“Agreement” means this agreement, as amended, supplemented or varied from time to time and its appendices;

“Baht” and “THB” means the lawful currency of the Kingdom of Thailand;

“Banking Day” means a day on which commercial banks are open for business in Thailand;

“Commencement Date” means 1<sup>st</sup> August 2016, the date on which Seller expects to commence supply of Raw Carbon Dioxide to Buyers under this agreement.

“Delivery Point” has the meaning attributed to it in Article 9;

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“Effective Date” means the date of this Agreement;

“Force Majeure” has the meaning given to it in Article 18;

“Measurement Manual” shall have the meaning given to it in Article 5;

“Month” means calendar month;

“Party” means Buyer and Seller individually and “Parties” means Buyer and Seller collectively, and their respective successors and permitted assigns;

“Price” shall have the meaning described in Article 6;

“Product” means Raw Carbon Dioxide (Raw CO2) having the specifications set out in Appendix I attached hereto;

“Seller’s Plant” shall have the meaning as described in recital (A);

“Year” means calendar year.

### 2) Product and Quality

The Product to be sold under this Agreement shall comply with the specification as set out in Appendix I attached hereto or such other specifications as may mutually agreed between the Parties from time to time in writing.

### 3) Duration

The term of this Agreement shall be effective immediately upon the Effective Date and govern the purchase and sale of Product between the Parties for a period of 10 years from the Commencement Date with the option to extend for further five (5) years by providing Seller not less than three (3) year advance notice in writing which as mutually agreed between the parties.

### 4) Quantity

Subject to the provision hereinafter contained, Buyer agrees to purchase and Seller agrees to supply the Product which will be in the range of 120 metric tons per day (converted from Product to Pure CO2 Quantity) based on Product output from Seller’s Plant.

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5) **Measurement**

Buyer shall take delivery of the Product from Seller by pipeline. The quantity of each delivery of Product in metric tons shall be determined by Buyer from Buyer's metering station in Buyer's Facilities (measured as Pure CO2 basis).

The Parties shall agree to a "Measurement Manual" which includes at least the following:

- Calculation procedure and examples of quantity and quality calculation
- Calibration procedure, period, witness procedure, verification procedure
- List of equipment and tools involved in quantity and quality measurement
- Error or lost record practices
- Reference standard or practices
- Accuracy
- Definition, etc.

The Measurement Manual shall be used as the basis for operation, calculation, and invoicing. Update of the Measurement Manual will be mutually agreed upon by both Parties during the period of 3 months prior to the Commencement Date.

6) **Price**

The Price of Product delivered in each Month shall follow term and conditions as below;

Price of Product equal to 0.465 Baht per Kilogram (converted from Product to Pure CO2 Quantity)("Po") based in year 2015

The Price of Product shall be adjusted on a yearly basis according to following formula;

$$\text{Adjusted Price of Product ("Pi")} = \text{Po} \times \text{CPIi/CPI0}$$

CPIi = Consumer Price Index (Central Area) along Year

7) **Minimum Take or Pay (MTOP)**

Buyer shall take a minimum quantity of Product from Seller on the annual basis equal to the quantity based on 35,000 metric tons per annum. In the event that Buyer does not take the Product up to MTOP quantity as specified below for any reason in any Year, Buyer shall pay Seller for the underlifted quantity for such Year.

Year	1	2	3	4	5	6	7 onwards
MTOP	40%	50%	50%	60%	60%	60%	60%

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The MTOP quantity for the first Year shall be counted from the Commencement Date to December of next year ,and last Year shall be reduced pro rata.

Invoice for the underlifted quantity under this Article shall be issued to Buyer within [thirty (30)] days after the end of Year with payment terms and conditions in accordance with Article 8 (Payment)

8) **Payment**

Invoice shall be issued to Buyer by Seller on a monthly basis with payment due forty-five (45) days after end of delivery period. The period covered in the invoice shall be from the first to the last date of the preceding month.

Invoice for the underlifted quantity pursuant to Article 7 (Minimum Take or Pay (MTOP)) shall be issued to Buyer by Seller on a yearly basis with payment due [forty-five (45)] days after end of each Year.

All payments shall be made by telegraphic transfer, wire transfer on or before the due date. The Payment amount of each invoice shall be calculated on the quantities of Product taken the measurement of which as determined according to Article 5 and the applicable Product Price during the period in which delivery was made as determined according to Article 6.

If the due date of payment falls on a non-Banking Day, payment shall be made on the immediate preceding Banking Day.

Should Buyer fail to make payment to Seller of any sum due hereunder, Buyer shall pay Seller penalty on any overdue amount owing to Seller by it at the rate equal to the sum of the Minimum Overdraft Rate (MOR) quoted by Krung Thai Bank Public Company Limited plus two percent (2%) per annum, calculated daily from the due date until the date on which all payments have been made in full by Buyer.

Any dispute regarding any Seller invoice shall be notified by Buyer in writing to Seller within five (5) days of receipt of such invoice. Upon Seller's receipt of such notice, the Parties shall promptly investigate the circumstances and make such adjustment as may be mutually agreed. In such event, Seller shall promptly issue a credit or debit note and such credit or debit note shall be used to adjust such invoice. In case of a failure to reach an agreement between the Parties, the matter shall be settled by Clause 17.

If the dispute is due to any reason other than quantity of the Product which the following paragraph shall apply, Buyer shall pay to Seller the full amount of dispute invoice within the due dates. In the event that the resolution of the dispute is in favor of Buyer, any dispute amount in

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favor of Buyer shall be paid to Buyer by Seller within 7 days of resolution of the dispute including of the Minimum Overdraft Rate (MOR) quoted by Krung Thai Bank Public Company Limited plus two percent (2%) per annum, calculated daily from the original due date of such invoice until the date on which all payment have been made in full by Seller.

In the event that the dispute is due to the quantity of the Product, Buyer shall pay all undisputed amounts on the invoice within the stipulated payment period referred to in the invoice. In the event that the resolution of dispute is in favor of Seller, any balance due in favor of Seller shall be paid by Buyer within seven (7) days of resolution of the dispute including the interest of the Minimum Overdraft Rate (MOR) quoted by Krung Thai Bank Public Company Limited plus 2% per annum, calculated on a daily basis from the original due date of such invoice until the date on which all payments have been made in full by Buyer.

If Buyer is in default on payment of each invoice, Seller reserves the right to stop supplying the Product to Buyer until the debt and penalty have been received in full.

**9) Delivery Point**

Product shall be delivered from Seller's Plant to Buyer's Facilities at agreed location hereinafter referred to as "Delivery Point" (its diagram as per Appendix II). Title and risk to Product shall pass from Seller to Buyer at the Delivery Point.

**10) Nomination Procedure**

Buyer shall use its best efforts to evenly take Product from Seller. Buyer shall, on or before the tenth (10<sup>th</sup>) of each month "month 0" advise Seller of Buyer's estimated requirements for the periods commencing from the following month "month 1" as follows;

- Estimated monthly requirement for the following 3 months (i.e. for month 1 to month 3), and
- Estimated daily requirement for the following 1 month.

Seller will advise Buyer on or before the twentieth (20<sup>th</sup>) of each month of the expected monthly and daily availability of Product to Buyer for subsequent months. The quantity so established by Seller to Buyer shall be binding on both Parties.

For commencement of the notice of requirements, Buyer shall notify Seller of Buyer's Facilities Start Up date three (3) months in advance together with its first three months requirement.

**11) Taxes and Duties**

In addition to the Price in Article 6, Buyer shall pay and be responsible for VAT, sales tax, business tax, excise tax and any other taxes of similar nature (including penalty and/or surcharge) imposed by Thai laws which are directly imposed on the sale of the Product under this Agreement.

**12) Safety Control**

For the purpose of the utilization of the Product to be in safe conditions and for receiving and measuring the quantity of the Product, during the term of this Agreement, Buyer and Seller mutually consent to the other Party's representative to enter and inspect the operations and maintenance work on the equipment used in relation to the Product in Seller's Plant and Buyer's Plant (respectively) at reasonable time. Each Party will notify other Party of such inspections 7 days in advance.

**13) Warranty**

Seller warrants that, at Delivery Point, all consignments of the Product delivered to Buyer under this Agreement comply with the specification set out in Appendix I or such other specification as is mutually agreed between the Parties from time to time in writing.

Except as expressly stated in this Agreement, Seller gives no warranty (express or implied) as to the suitability composition for use by Buyer or purity of the Product supplied by Seller hereunder.

**14) Assignment**

Either party may assign its rights under this Agreement to any financial institution (or special vehicle designated thereby) for the purpose of securing credit facilities. Notice of such assignment of rights shall be given by the assigning Party to the other Party, and when written consent of the other Party is required, such written consent shall be given by the other Party without delay.

Except as provided above, rights and obligations under this Agreement shall not be transferred or assigned without the prior written consent of both Parties.

**15) Insurance**

Seller will insure Seller's Plant and Buyer will insure Buyer's premise and each shall waive right of recourse against the other and will not allow the insurance company to take recourse against the other party if Buyer's Facilities suffers damage due to Seller's Plant, or if Seller's Plant suffers damage due to Buyer's Facilities and such damage is covered by the respective insurance policy, except the loss and claim caused by gross negligence. The said insurance shall be maintained throughout the duration of purchase and sale of the Product between Seller and Buyer.

**16) Hardship and Unusual or Changed Circumstances**

It is intended that this Agreement will provide for fair and equitable treatment of both Parties. In the event of unusual or changed circumstances including changes in Thai Laws, regulations, and notifications or the interpretation thereof, and/or hardship incurred to or by any of the Parties, the Parties agree to promptly meet and use best efforts to resolve these difficulties in a fair and equitable manner.

**17) Settlement of Dispute**

The Parties agree to make every effort to settle amicably any dispute, controversy and claims arising or relating to this Agreement. If the Parties are unable to settle amicably any such dispute, controversy or claim, the Party to the dispute may deliver to the other Party a written notice that the matter be submitted to competent court.

**18) Force Majeure**

"Force Majeure" as used herein shall have the meaning provided in the Civil and Commercial Code and shall include act of government, act of enemy in warlike nature whether declared or not, embargo, uprising, revolt, unrest or disturbances, sabotage, espionage, strike, lock-out under the Labor Relations Act, any dispossession, earthquake, typhoon, storm, fire, flood, breakage or leakage, equipment breakdown or explosion due to an accident involving the Product tank or pipes or other equipment in the plants belonging to Buyer or to Seller which suspends the delivery of the Product or makes the delivery impossible or insufficient or any other cause for which precautions cannot be taken against by either Party.

In the event that either Party is unable to perform the Agreement due to Force Majeure under this Agreement, it cannot be deemed that such Party is in breach of the Agreement and the other Party cannot claim for any damages in all respects.

Notwithstanding the foregoing, the occurrence of a Force Majeure event shall not affect Buyer's obligation set forth in Article 7 hereof.

**19) Entire Agreement**

This Agreement (together with any document referred to herein or executed contemporaneously by the Parties in connection herewith) constitutes the whole agreement between the Parties and supersedes any prior agreements, understandings, letter of intent, or arrangements between them, whether oral or in writing relating to the subject matter hereof and no representation, undertaking, or promise shall be taken to have been given or be implied from anything said or written in negotiations between the Parties prior to this agreement except as set out in this Agreement.

**20) Indemnities**

Buyer shall, in respect of the operations to be performed under this Agreement, indemnify and hold harmless Seller against and from all claims, whether in contract or in tort for damage to property or injury to persons wherever occurring only insofar as such damage or injury arises as a direct, immediate, and natural result of the intention or negligence of Buyer, its servants, and agents or arises from the Product in Buyer's possession or control. Seller agrees, in respect of the operations to be performed under this Agreement, to indemnify and hold harmless Buyer against and from all claims whether in contract or in tort for damage to property or injury to persons wherever occurring only insofar as such damage or injury arises as a direct, immediate, and natural result of the intention or negligence of Seller, its servants, and agents or arises from the Product in Seller's possession or control.

Notwithstanding the foregoing, if a court states that a Party indemnified under this Article has been guilty of contributory negligence or has contributed in any way to the damage in respect of which it claims to be indemnified, then the amount payable under the indemnity by the other Party, will be reduced by the amount of contribution or indemnity ordered by the court against the Party guilty of contributory negligence or where no such order is made by the court by such amount as is just and equitable having regard to the extent of the loss or damage and to the claimant's share of responsibility for such loss or damage.

The Party liable to indemnify the other in respect of any such claim which is the subject of any indemnity referred to in this Article, shall have the right to assume the conduct, control, and settlement of such claim including any defenses, counter-claims, set-off, or cross-actions which may be available in respect of, or against such claim.

**21) Limitation of Liability**

Notwithstanding any provision of this Agreement or any presumption of the law to the contrary, no Party of this Agreement shall be liable whether in contract or in tort in any circumstance for damage or loss which is consequential or indirect or which would not have arisen but for some supervening event occurring after the alleged negligent act or omission in respect of which the claim is made nor without limiting the generality of the foregoing shall either Party be liable for any loss of actual or expected profits, capital gains, or any business or other gains in any kind.

**22) Waiver**

The failure or delay of any Party to enforce or to exercise, at any time or for any period of time, any term of or any right or remedy arising pursuant to or under this Agreement does not constitute, and shall not be construed as, a waiver of such term or right or remedy and shall in no way affect that Party's right later to enforce or exercise it.

**23) Termination**

This Agreement may be terminated at any time:

- (a) For any reason by mutual consent; or
- (b) In the event that either Party shall default in the performance of any express obligation to be performed by that Party under this Agreement then the other Party may, by written notice, require the defaulting Party to remedy its default. If the default is not remedied within thirty (30) days after receipt of such notice, then the affected Party may terminate this Agreement by written notice to the defaulting Party specifying the effective date of termination; or
- (c) In the event that either Party has significant market declining therefore stop operation,

In the event that the Agreement has been terminated by this Article, the affected Party shall have the right to claim from the defaulting Party for penalty, damages or any expenses which arose to it.

**24) Confidentiality**

Neither Party to this Agreement shall divulge or allow to be divulged to any third party whether for profit or otherwise nor make use of themselves any confidential information, including but not limited to manufacturing know-how, techniques, and formulae, acquired by any means whatsoever from the other Party without the express written consent of that other Party. This Article shall continue beyond the life of this Agreement.

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**25) Notices**

Any notice or other communications provided for in this Agreement shall be made in writing and be delivered (unless otherwise specified herein):

- (a) by hand to the address of the Parties as set forth below; or
- (b) by facsimile followed by hand or registered mail post to the address of the Parties as set forth below; or
- (c) by registered mail post in a sealed envelope addressed to the parties at the following address :

to Seller: TOC Glycol Company Limited  
Address: 555/1, Energy Complex, Building A, 15<sup>th</sup> Floor,  
Vibhavadi Rangsit Road, Chatuchak,  
Bangkok 10900  
Attention: Managing Director  
Facsimile No. (66) 3899-4447

to Buyer: Genius Integrated Solutions Company Limited  
Address: 1467 Kanjanapisek Road, Bangkaenua, Bangkai, Bangkok 10160  
Attention: Managing Director  
Facsimile No. (66) 2805-6829

Any notice or other communications delivered as aforesaid in (a) and (c) shall be deemed to have been given at the time and on the date it is received. Any notice or other communications delivered as aforesaid in (b) shall be deemed to have been given at the time and on the date it is received by facsimile. Any address for notice as set out above with respect to any party hereto may be changed from time to time by such Party giving notice of such change to the other Party in writing.

**26) Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Kingdom of Thailand.

**27) Invalidity**

If one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not

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affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or provisions had never been contained herein.

**28) Other Conditions**

CO2 Facilities Buy Back

At any time during the Agreement term and both Parties mutually agree to terminate the Agreement term while Buyer have no plan to use CO2 facilities in other site of Buyer, Seller has the rights of first refusal to purchase the CO2 facilities in whole or in part from Buyer at depreciated cost. In the event that Seller refuses to purchase the CO2 facilities from Buyer, Buyer shall be responsible to dismantle the CO2 facilities except for immovable construction parts.

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In witness whereof, the undersigned, duly authorized representative of TOC Glycol Company Limited and Genius Integrated Solutions Company Limited have duly signed this Agreement.

**For and on behalf of TOC Glycol Company Limited**

By

Name

Title

Witness:

Name :

**For and on behalf of Genius Integrated Solutions Company Limited**

By

Name

Title

Witness

Name

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APPENDIX I

PRODUCT SPECIFICATION

Raw CO2

Items	unit	Typical Spec
CO2	% mol	90 min
CO	ppm mol	10 Max
Methane, Ethane, Ethylene	ppm mol	802 Max
Ethylene Oxide	ppm mol	100 Max
Acetaldehyde	ppm wt	3 Max
N2, O2, Water Content	% mol	10 Max

Note:

1. The specification mentioned above is agreed by both Parties for design purpose of CO2 Facilities.
2. Other Parameters do not specified here above shall be buyer responsibility.

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APPENDIX II

DELIVERY POINT

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***FEED STOCK SUPPLY AGREEMENT***

**TOC GLYCOL COMPANY LIMITED**

**And**

**BANGKOK INDUSTRIAL GAS COMPANY LIMITED**

**Dated the First day of January 2012**

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## FEEDSTOCK SUPPLY AGREEMENT

This Agreement is made and entered into as of the First day of January, 2012 by and between **Bangkok Industrial Gas Company Limited**, having its principal place of business at 183 Rajanakarn Building, 11<sup>th</sup> Floor, South Sathorn Road, Yannawa, Sathorn, Bangkok 10120 hereinafter referred to as "Buyer" and **TOC Glycol Company Limited**, having its principal place of business at 555/1, Energy Complex, Building A, 15<sup>th</sup> Floor, Vibhavadi Rangsit Road, Chatuchak, Bangkok 10900 hereinafter referred to as "Seller".

### Recitals:

- (A) Seller is a company who owns and operates its plant located at 9 Soi G12, Hemaraj Eastern Industrial Estate, Pakorn Songkhraorai Road, Tambon Maptaphut, Amphur Mueang Rayong, Rayong 21150 (the "Seller's Plant"), which manufactures main product Ethylene Oxide (EO) and Ethylene Glycol (EG) and Raw Carbon Dioxide (Raw CO<sub>2</sub>) as by product; and
- (B) Buyer is a company who owns and operates the purified and liquefaction plant of carbon dioxide (CO<sub>2</sub>), including storage tank and loading system, to be located inside Seller's Plant (collectively referred to as "Buyer's Facilities"), the terms and conditions of which as mutually agreed between the Parties in writing; and
- (C) Buyer and Seller wish to enter into long term agreement pursuant to which Seller will sell the Product and Buyer will purchase the Product, all on the terms and conditions set out herein.

Therefore, the Parties agree to the terms and conditions as follows:

### 1) Definitions

For the purpose of this Agreement, unless the context otherwise requires, the following terms shall have the meanings defined below:

"Agreement" means this agreement, as amended, supplemented or varied from time to time and its appendices;

"Baht" and "THB" means the lawful currency of the Kingdom of Thailand;

"Banking Day" means a day on which commercial banks are open for business in Thailand;

"Commencement Date" means the first day of commercial operation of Buyer's Facilities

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"Delivery Point" has the meaning attributed to it in Article 9;

"Force Majeure" has the meaning given to it in Article 18;

"Measurement Manual" shall have the meaning given to it in Article 5;

"Month" means calendar month;

"Party" means Buyer and Seller individually and "Parties" means Buyer and Seller collectively, and their respective successors and permitted assigns;

"Price" shall have the meaning described in Article 6;

"Product" means Raw Carbon Dioxide (Raw CO<sub>2</sub>) having the specifications set out in Appendix I attached hereto;

"Seller's Plant" shall have the meaning as described in Recital (A);

"Year" means calendar year.

### 2) Product and Quality

The Product to be sold under this Agreement shall comply with the specification as set out in Appendix I attached hereto or such other specifications as may be mutually agreed between the Parties from time to time in writing.

### 3) Duration

The term of this Agreement shall be effective immediately upon the execution date hereof and govern the purchase and sale of Product between the Parties for a period of fifteen (15) years from the Commencement Date with the option to extend for further five (5) years by providing Seller not less than three (3) year advance notice in writing.

### 4) Quantity

Subject to the provision hereinafter contained, Buyer agrees to purchase and Seller agrees to supply the Product which will be in the range of 120-150 metric tons per day

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## 5) Measurement

Buyer shall take delivery of the Product from Seller by pipeline. The quantity of each delivery of Product, which will be measured in metric tons unit, shall be determined by Buyer from Buyer's pay meter, which will measure output from the purified and liquefaction plant to the storage tank, in Buyer's Facilities.

The Parties shall agree to a "Measurement Manual" which includes at least the following:

- Calculation procedure and examples of quantity and quality calculation
- Calibration procedure, period, witness procedure, verification procedure
- List of equipment and tools involved in quantity and quality measurement
- Error or lost record practices
- Reference standard or practices
- Conversion factors
- Accuracy
- Definition, etc.

The Measurement Manual shall be used as the basis for operation, calculation, and invoicing. Update of the Measurement Manual will be mutually agreed upon by both Parties during the period of 3 months prior to the Commencement Date.

## 6) Price

The Price of Product delivered in each Month shall compose of 2 portions

6.1 Price of Product equal to 0.3834 Baht per Kilogram ("Po") based in year 2012.

The Price of Product shall be adjusted on a yearly basis according to following formula;

$$\text{Adjusted Price of Product ("Pi")} = \text{Po} \times (1 + 4\%)^{(\text{Number of Agreement Year} - 1)}$$

The 4% escalation shall be mutually reviewed and agreed by both Parties to adjust according to market situation.

6.2 Raw CO2 Electricity Service equal to actual electricity consumption measured by the Seller's meter, multiply by Seller's electricity price charged by PTT Utility Company Limited's formula price in each Month with actual discount (3%-5%) (115 KV tariff rate) in Baht per kWh, excluding [REDACTED]

## 7) Minimum Take or Pay (MTOP)

Buyer shall take a minimum quantity of Product from Seller on the annual basis equal to the quantity based on 120 metric tons per day. The MTOP quantity shall be deducted based on unavailability of Raw CO2 from Seller to Buyer proportionally. In the event that Buyer does not take the Product up to MTOP quantity as specified below for any reason in any Year, Buyer shall pay Seller for the underlifted quantity for such Year.

Contract Year	1	2	3	4	5	6	7 onwards
MTOP	40%	50%	50%	60%	60%	60%	70%

The MTOP quantity for the first and last Year shall be calculated pro rata.

Invoice for the underlifted quantity under this Article shall be issued to Buyer within thirty (30) days after the end of Year with payment terms and conditions in accordance with Article 8 (Payment).

## 8) Payment

Invoice shall be issued to Buyer by Seller on a monthly basis with payment due forty-five (45) days after end of delivery period. The period covered in the invoice shall be from the first to the last date of the preceding month.

Invoice for the underlifted quantity pursuant to Article 7 (Minimum Take or Pay (MTOP)) shall be issued to Buyer by Seller on a yearly basis with payment due forty-five (45) days after end of delivery period.

All payments shall be made by telegraphic transfer, wire transfer on or before the due date. The Payment amount of each invoice shall be calculated on the quantities of Product taken the measurement of which as determined according to Article 5 and the applicable Product Price during the period in which delivery was made as determined according to Article 6.

If the due date of payment falls on a non-Banking Day, payment shall be made on the immediate preceding Banking Day.

Should Buyer fail to make payment to Seller of any sum due hereunder, Buyer shall pay Seller penalty on any overdue amount owing to Seller by it at the rate equal to the sum of the Minimum Overdraft Rate (MOR) quoted by Krung Thai Bank Public Company Limited plus two percent (2%) per annum, calculated daily from the due date until the date on which all payments have been made in full by Buyer [REDACTED]

Any dispute regarding any Seller invoice shall be notified by Buyer in writing to Seller within five (5) working days of receipt of such invoice. Upon Seller's receipt of such notice, the Parties shall promptly investigate the circumstances and make such adjustment as may be mutually agreed. In such event, Seller shall promptly issue a credit or debit note and such credit or debit note shall be used to adjust such invoice. In case of a failure to reach an agreement between the Parties, the matter shall be settled by Article 17.

Buyer shall pay to Seller the full amount of undisputed amount within the due dates. In the event that the resolution of dispute is in favor of Seller, any balance due in favor of Seller shall be paid by Buyer within seven (7) days of resolution of the dispute including the interest of the Minimum Overdraft Rate (MOR) quoted by Krung Thai Bank Public Company Limited plus 2% per annum, calculated on a daily basis from the original due date of such invoice until the date on which all payments have been made in full by Buyer.

If Buyer is in default on payment of each undisputed invoice, Seller reserves the right to stop supplying the Product to Buyer until the debt and penalty have been received in full.

**9) Delivery Point**

Product shall be delivered from Seller's Plant to Buyer's Facilities at agreed location hereinafter referred to as "Delivery Point" (its diagram as per Appendix II). Title and risk to Product shall pass from Seller to Buyer at the Delivery Point.

**10) Nomination Procedure**

Buyer shall use its best efforts to evenly take Product from Seller. Buyer shall, on or before the twenty-fifth (25<sup>th</sup>) of each month "month 0" advise Seller of Buyer's estimated requirements for the periods commencing from the following month "month 1" as follows;

- Estimated monthly requirement for the following 3 months (i.e. for month 1 to month 3), and
- Estimated daily requirement for the following 1 month.

Seller will advise Buyer on or before the twenty-eighth (28<sup>th</sup>) of each month of the expected monthly and daily availability of Product to Buyer for subsequent months. The quantity so established by Seller to Buyer shall be binding on both Parties. If, any time, any Party foreseen the possibility of deviation of nominated quantity, such Party shall inform the revised nominated quantity to the other Party as soon as possible. For commencement of the notice of requirements, Buyer shall notify Seller of Buyer's Facilities start-up date three (3) months in advance together with its first three (3) months requirement [REDACTED]

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**11) Taxes and Duties**

In addition to the Price in Article 6, Buyer shall pay and be responsible for VAT, and any other taxes of similar nature (including penalty and/or surcharge) imposed by Thai laws which are directly imposed on the sale of the Product under this Agreement.

**12) Safety Control**

For the purpose of the utilization of the Product to be in safe conditions and for receiving and measuring the quantity of the Product, during the term of this Agreement, Buyer and Seller mutually consent to the other Party's representative to enter and inspect the operations and maintenance work on the equipment used in relation to the Product in Seller's Plant and Buyer's Plant (respectively) at reasonable time. Each Party will notify other Party of such inspections seven (7) days in advance.

**13) Warranty**

Seller warrants that, at Delivery Point, all consignments of the Product delivered to Buyer under this Agreement comply with the specification set out in Appendix I or such other specification as is mutually agreed between the Parties from time to time in writing.

Except as expressly stated in this Agreement, Seller gives no warranty (express or implied) as to the suitability composition for use by Buyer or purity of the Product supplied by Seller hereunder.

**14) Assignment**

Either Party may assign its rights under this Agreement to any financial institution (or special vehicle designated thereby) for the purpose of securing credit facilities. Notice of such assignment of rights shall be given by the assigning Party to the other Party, and when written consent of the other Party is required, such written consent shall be given by the other Party without delay.

Except as provided above, rights and obligations under this Agreement shall not be transferred or assigned without the prior written consent of both Parties.

**15) Insurance**

Seller will insure Seller's Plant and Buyer will insure Buyer's Facilities and each shall waive right of recourse against the other and will not allow the insurance company to take recourse against the other Party if Buyer's Facilities suffers damage due to Seller's Plant, or if Seller [REDACTED]

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Plant suffers damage due to Buyer's Facilities and such damage is covered by the respective insurance policy, except the loss and claim caused by gross negligence. The said insurance shall be maintained throughout the duration of purchase and sale of the Product between Seller and Buyer.

**16) Hardship and Unusual or Changed Circumstances**

It is intended that this Agreement will provide for fair and equitable treatment of both Parties. In the event of unusual or changed circumstances including changes in Thai Laws, regulations, and notifications or the interpretation thereof, and/or hardship incurred to or by any of the Parties, the Parties agree to promptly meet and use best efforts to resolve these difficulties in a fair, equitable, and coordinated manner.

**17) Settlement of Dispute**

The Parties agree to make every effort to settle amicably any dispute, controversy and claims arising or relating to this Agreement. If the Parties are unable to settle amicably any such dispute, controversy or claim, the Party to the dispute may deliver to the other Party a written notice that the matter be submitted to competent court.

**18) Force Majeure**

"Force Majeure" as used herein shall have the meaning provided in the Civil and Commercial Code and shall include act of government, act of enemy in warlike nature whether declared or not, embargo, uprising, revolt, unrest or disturbances, sabotage, espionage, strike, lock-out under the Labor Relations Act, any dispossession, earthquake, typhoon, storm, fire, flood, breakage or leakage, equipment breakdown or explosion due to an accident involving the Product tank or pipes or other equipment in the plants belonging to Buyer or to Seller which suspends the delivery of the Product or makes the delivery impossible or insufficient or any other cause for which precautions cannot be taken against by either Party.

In the event that either Party is unable to perform the Agreement due to Force Majeure under this Agreement, it cannot be deemed that such Party is in breach of the Agreement and the other Party cannot claim for any damages in all respects. For an avoidance of doubt, Buyer's obligation to pay the MTOP under Article 7 shall be proportionally reduced reflecting the actual period of Force Majeure event which is claimed in any Contract Year.

Each Party's ability to declare a Force Majeure event and thereby be excused from performing its obligation under this Agreement shall be limited to six (6) months in aggregate during a single Contract Year. If an event of Force Majeure causes such limit to be exceeded, the Parties shall meet to discuss possible solutions.

**19) Entire Agreement**

This Agreement (together with any document referred to herein or executed contemporaneously by the Parties in connection herewith) constitutes the whole agreement between the Parties and supersedes any prior agreements, understandings, letter of intent, or arrangements between them, whether oral or in writing relating to the subject matter hereof and no representation, undertaking, or promise shall be taken to have been given or be implied from anything said or written in negotiations between the Parties prior to this agreement except as set out in this Agreement.

**20) Indemnities**

Buyer shall, in respect of the operations to be performed under this Agreement, indemnify and hold harmless Seller against and from all claims, whether in contract or in tort for damage to property or injury to persons wherever occurring only insofar as such damage or injury arises as a direct, immediate, and natural result of the intention or negligence of Buyer, its servants, and agents or arises from the Product in Buyer's possession or control. Seller agrees, in respect of the operations to be performed under this Agreement, to indemnify and hold harmless Buyer against and from all claims whether in contract or in tort for damage to property or injury to persons wherever occurring only insofar as such damage or injury arises as a direct, immediate, and natural result of the intention or negligence of Seller, its servants, and agents or arises from the Product in Seller's possession or control.

Notwithstanding the foregoing, if a court states that a Party indemnified under this Article has been guilty of contributory negligence or has contributed in any way to the damage in respect of which it claims to be indemnified, then the amount payable under the indemnity by the other Party, will be reduced by the amount of contribution or indemnity ordered by the court against the Party guilty of contributory negligence or where no such order is made by the court by such amount as is just and equitable having regard to the extent of the loss or damage and to the claimant's share of responsibility for such loss or damage.

The Party liable to indemnify the other in respect of any such claim which is the subject of any indemnity referred to in this Article, shall have the right to assume the conduct, control, and settlement of such claim including any defenses, counter-claims, set-off, or cross-actions which may be available in respect of, or against such claim.

**21) Limitation of Liability**

Notwithstanding any provision of this Agreement or any presumption of the law to the contrary, no Party of this Agreement shall be liable whether in contract or in tort in any circumstance for damage or loss which is consequential or indirect or which would not have arisen but for the negligence or willful misconduct of the Party liable.



for some supervening event occurring after the alleged negligent act or omission in respect of which the claim is made nor without limiting the generality of the foregoing shall either Party be liable for any loss of actual or expected profits, capital gains, or any business or other gains in any kind.

**22) Waiver**

The failure or delay of any Party to enforce or to exercise, at any time or for any period of time, any term of or any right or remedy arising pursuant to or under this Agreement does not constitute, and shall not be construed as, a waiver of such term or right or remedy and shall in no way affect that Party's right later to enforce or exercise it.

**23) Termination**

This Agreement may be terminated at any time:

- (a) For any reason by mutual consent; or
- (b) In the event that either Party shall default in the performance of any express obligation to be performed by that Party under this Agreement then the other Party may, by written notice, require the defaulting Party to remedy its default. If the default is not remedied within thirty (30) days after receipt of such notice, then the affected Party may terminate this Agreement by written notice to the defaulting Party specifying the effective date of termination.
- (c) The occurrence of a Force Majeure event which has actually subsisted for at least six (6) consecutive months and solutions in accordance with Article 18 cannot be agreed between the Parties within 6 months.

In the event that the Agreement has been terminated by this Article, the affected Party shall have the right to claim from the defaulting Party for penalty, damages or any expenses which arose to it.

**24) Confidentiality**

Neither Party to this Agreement shall divulge or allow to be divulged to any third party whether for profit or otherwise nor make use of themselves any confidential information, including but not limited to manufacturing know-how, techniques, and formulae, acquired by any means whatsoever from the other Party without the express written consent of that other Party. This Article shall continue beyond the life of this Agreement until 5 years thereafter

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**25) Notices**

Any notice or other communications provided for in this Agreement shall be made in writing and be delivered (unless otherwise specified herein):

- (a) by hand to the address of the Parties as set forth below; or
- (b) by facsimile followed by hand or registered mail post to the address of the Parties as set forth below; or
- (c) by registered mail post in a sealed envelope addressed to the parties at the following address :

to Seller: TOC Glycol Company Limited  
Address: 555/1, Energy Complex, Building A, 15<sup>th</sup> Floor,  
Vibhavadi Rangsit Road, Chatuchak,  
Bangkok 10900  
Attention: Managing Director  
Facsimile No. (66) 3899-4447

to Buyer: Bangkok Industrial Gas Company Limited  
Address: 183 Rajanakarn Building, 11<sup>th</sup> Floor,  
South Sathorn Road, Yannawa,  
Sathorn, Bangkok 10120  
Attention: Managing Director  
Facsimile No. (66) 2685-6790

Any notice or other communications delivered as aforesaid in (a) and (c) shall be deemed to have been given at the time and on the date it is received. Any notice or other communications delivered as aforesaid in (b) shall be deemed to have been given at the time and on the date it is received by facsimile. Any address for notice as set out above with respect to any party hereto may be changed from time to time by such Party giving notice of such change to the other Party in writing.

**26) Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Kingdom of Thailand

Confidential

27) **Invalidity**

If one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or provisions had never been contained herein.

28) **Amendment**

No modification or amendment or waiver of this Agreement shall bind the Parties unless in writing, stated to modify or amend or waive the terms of this Agreement and signed and accepted by duly authorized representatives of both Parties; and, such modification or amendment or waiver thereof shall form an integral part of this Agreement.

29) **Other Conditions**

Purified CO2 Buy Back by Seller

Subject to Product supply availability from Seller with a minimum of two (2) years advance written notice to Buyer, Buyer agrees to sell and Seller agrees to purchase purified CO2 for use at Seller's Plant or PTT Global Chemical Public Company Limited's affiliates at the price to be mutually agreed based on cost-plus concept which shall be lower than the then-current purified CO2 market price.

CO2 Facilities Buy Back

At any time during the Agreement term and both Parties mutually agree to terminate the Agreement term while Buyer have no plan to use Buyer's Facilities in other site of Buyer, Seller has the rights of first refusal to purchase the Buyer's Facilities in whole or in part from Buyer at depreciated cost. In the event that Seller refuses to purchase the Buyer's Facilities from Buyer, Buyer shall be responsible to dismantle the Buyer's Facilities except for immovable construction part [REDACTED]

In witness whereof, the undersigned, duly authorized representative of TOC Glycol Company Limited and Bangkok Industrial Gas Company Limited have duly signed this Agreement.

**For and on behalf of TOC Glycol Company Limited**

By : [REDACTED]

Name : [REDACTED]

Title : Director

Witness: [REDACTED]

Name : [REDACTED]



บริษัท ทีโอซี ไกลคอล จำกัด  
TOC Glycol Company Limited



**For and on behalf of Bangkok Industrial Gas Company Limited**

By : [REDACTED]

Name : [REDACTED]

Title : Managing Director

Witness: [REDACTED]

Name : [REDACTED]





APPENDIX I  
PRODUCT SPECIFICATION

Raw CO2

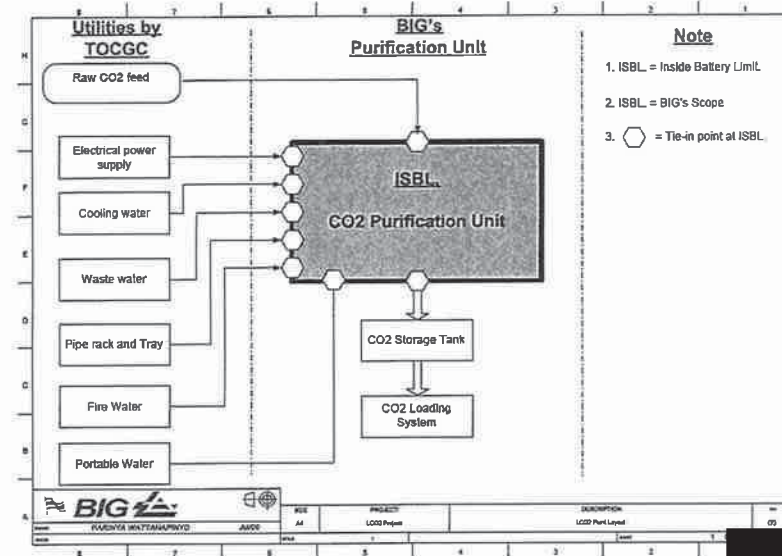
Item	Unit	Specification
CO2	mol%	90.0 – 99.0
Water content	mol%	0.5 – 1.0
Acetaldehyde	ppm	1.0 – 3.0
Carbon Monoxide	ppm	3.0 – 10.0
Carbon Sulfide	ppb	0 – 30
Methane	ppm	150 – 300
Ethane	ppm	1.0 – 2.0
Ethylene	ppm	200 – 500
Ethylene Oxide	ppm	0 – 50
Total Sulfur	ppm	0 – 0.5
Nitrogen	mol%	3.0 – 8.0
Oxygen	mol%	0 – 5.0

Note:

1. The specification mentioned above is agreed by both Parties for design purpose of Buyer's Facilities only.
2. It is acknowledged and recognized by both Parties that the above specification list is an essential subject matter of the construction of the Buyer's Facilities. Should the above specification is subjected to change when there is major change in Seller's Plant, the Seller shall use every reasonable efforts to prevent material negative effect to Buyer's Facilities provided that both Parties shall work in coordinated manner based on international industrial standard and in good faith.

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APPENDIX II  
DELIVERY POINT



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**BIG**

Bangkok Industrial Gas Company Limited  
169 Rajabhat Road, 11th Floor, South Sathorn District  
Bangkok 10120, Thailand. Tel: 02-2576 6262 Fax: 02-2576 6268-9 Order Center 1731

ที่ BIGTOGCO-T-0008

วันที่ 18 มิถุนายน 2555

เรื่อง ขอแจ้งกำหนดการรับก๊าซคาร์บอนไดออกไซด์ (CO2)

เรียน คุณเสริมศักดิ์ ศรียาภัย  
กรรมการผู้จัดการ  
บริษัท ทีโอซีไกลคอล จำกัด

จากที่ได้มีการประชุมร่วมกันระหว่างบริษัท ทีโอซีไกลคอล จำกัด (TOGCO) และบริษัท บางกอกอินดัสเทรียลแก๊ส จำกัด (BIG) เมื่อวันที่ 31 พฤษภาคม 2555 โดยในที่ประชุมได้สรุปเรื่องการรับก๊าซคาร์บอนไดออกไซด์ (CO2) และ ส่วนของระบบประปาจาก TOGCO โดยให้ทาง BIG ทำหน้าที่เชื่อมต่อ TOGCO ส่งน้ำตามความเหมาะสม

ดังนั้น ทางบริษัทฯ ขอแจ้งกำหนดการที่จะเริ่มรับก๊าซคาร์บอนไดออกไซด์ (CO2) และส่วนของระบบประปาจาก TOGCO เพื่อทำการ Commissioning และผลิตก๊าซคาร์บอนไดออกไซด์เหลว (LCO2) ในวันที่ 15 กรกฎาคม 2555 นี้ เป็นต้นไป และในส่วนที่ทาง TOGCO อนุญาตให้ระบบสาธารณูปโภคอื่นๆ ที่จำเป็นต่อกระบวนการผลิต เช่น ระบบไฟฟ้า, ระบบน้ำหล่อเย็น, ระบบน้ำดับเพลิง และน้ำประปา เป็นต้น ให้มีทาง BIG ตามวันดังกล่าวข้างต้นด้วย

จึงเรียนมาเพื่อทราบ และพิจารณาดำเนินการ

ขอแสดงความนับถือ



ผู้อำนวยการโครงการ CO2

บริษัท บางกอกอินดัสเทรียลแก๊ส จำกัด

สำเนาเรียน : คุณทวีวุฒิ ประชุมมาศ บริษัท ทีโอซีไกลคอล จำกัด

เรียน PV

เพื่อโปรดทราบ

กำหนดส่ง ก๊าซคาร์บอนไดออกไซด์ / 8 ชม / 24 ชม

PR.

PR.

Think BIG ... The Name You Can Rely On

**RAW CARBONDIOXIDE  
SUPPLY AGREEMENT**

**TOC GLYCOL COMPANY LIMITED**

And

**GENIUS INTEGRATED SOLUTIONS COMPANY LIMITED**

Dated 11<sup>th</sup> September 2015

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## FEED STOCK SUPPLY AGREEMENT

TOC GLYCOL COMPANY LIMITED

And

BANGKOK INDUSTRIAL GAS COMPANY LIMITED

Dated the First day of January 2012

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