

City Agreement No. 2420-A

**MONTEREY PARK EXCLUSIVE RESIDENTIAL DISCARDED MATERIALS
AGREEMENT BETWEEN THE CITY OF MONTEREY PARK AND
WARE DISPOSAL, INC.**

September 1, 2024

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Table of Contents

Article I. Recitals.....	1
Article II. Definitions.....	4
Article III. Grant Of Franchise.....	16
Article IV. Franchise Exclusions.....	20
Article V. Term.....	20
Article VI. Liability And Indemnification.....	21
Article VII. Insurance.....	23
Article VIII. Diversion Standards.....	27
Article IX. Types And Frequency Of Service.....	30
Article X. Operations.....	38
Article XI. Collection And Container Equipment And Personnel.....	51
Article XII. Privacy.....	53
Article XIII. Service Exceptions; Hazardous Waste Notifications; Contamination And Compliance Monitoring.....	54
Article XIV. Customer Service.....	61
Article XV. Emergency Service.....	63
Article XVI. Ownership Of Discarded Materials And Recyclables.....	65
Article XVII. Rates And Billing.....	65
Article XVIII. Future Adjustments.....	68
Article XIX. Franchisee’s Books And Records; Audits.....	68
Article XX. The Act; Reporting Requirements.....	69
Article XXI. Activities And Financial Reports; Adverse Information.....	73
Article XXII. Security.....	77
Article XXIII. Imposition Of Damages; Termination.....	78
Article XXIV. City’s Additional Remedies.....	82
Article XXV. Franchise Transfer; City Consent; Fees.....	83
Article XXVI. Annual Review Of Performance And Quality Of Service.....	85
Article XXVII. System And Services Review.....	86
Article XXVIII. Limitations Of Scope.....	87
Article XXIX. General Provisions.....	89
Article XXX. Miscellaneous Provisions.....	92

List of Exhibits

Exhibit 1: Franchise Area of the Agreement	1-1
Exhibit 2: Initial Rates for Franchisee Services.....	2-1
Exhibit 3: Container Specifications	3-1
Exhibit 4: Planning Requirements and Customer Service and Education	4-1
Exhibit 5: Schedule of Liquidated Damages	5-1
Exhibit 6: City Request for Qualifications and Franchisee's Statement of Qualifications	6-1
Exhibit 7: City Request for Applications and Franchisee's Application for a Waste Collection and Recycling Franchise.....	7-1
Exhibit 8: Proposition 218 Rates	8-1
Exhibit 9: Form of Guaranty.....	9-1
Exhibit 10: Schedule of Submittals.....	10-1
Exhibit 11: Example of the Method by Which Franchisee's Waste Diversion Rate is to be Calculated and Reported to the City	11-1
Exhibit 12: Sample Roll Out Services Application	12-1
Exhibit 13: Reports	13-1
Exhibit 14: Approved Facilities List.....	14-1

**MONTEREY PARK EXCLUSIVE RESIDENTIAL DISCARDED MATERIALS
AGREEMENT BETWEEN THE CITY OF MONTEREY PARK
AND WARE DISPOSAL, INC.**

THIS AGREEMENT is made and entered into on September 1, 2024 (“EFFECTIVE DATE”), by and between CITY OF MONTEREY PARK, a general law city and municipal corporation (“City”) and Ware Disposal, Inc. (“Franchisee”). City and Franchisee may sometimes below be referred to as the “Parties.” The Parties agree as follows:

ARTICLE I. RECITALS

Section 1.01 The Parties enter into this Agreement with reference to the following facts, objectives, and understandings:

- A. The City finds it advances the health, safety, and welfare of the Residents, business, and visitors to the City to have an orderly and effective Collection and Disposal of Residential Discarded Materials and to that end to award an exclusive Franchise Agreement to a qualified hauler of Discarded Materials;
- B. Pursuant to Article XI, § 7 of the California Constitution, City has the duty and authority of matters of public sanitation;
- C. The California Integrated Waste Management Act of 1989 (Public Resources Code §§ 40000, *et seq.*; the “Act”) establishes a Discarded Materials management process which requires cities and other local jurisdictions to implement plans for source reduction, reuse, and Recycling as integrated waste management practices and to meet the goals and objectives of the Act;
- D. AB 939 authorizes and requires local agencies to make adequate provisions for Discarded Materials Handling, within their jurisdictions;
- E. City is obligated to protect the public health and safety of the Residents of the City; waste haulers, and recyclers should make arrangements for the Collection of Discarded Materials in a manner consistent with the protection of public health and safety;

- F. The Act provides that aspects of Discarded Materials Handling of local concern include, without limitation, frequency of Collection, means of Collection and transportation, level of services, charges and fees, and nature, location and extent of providing Discarded Materials services, and whether the services are to be provided by means of nonexclusive, partially exclusive, or wholly exclusive Franchise, contract, license, or otherwise which may be granted by local government under terms and conditions prescribed by the governing body of the local agency;
- G. City is obligated to protect the public health and safety of City's Residents and arrangements made by Discarded Materials enterprises and recyclers for the Collection of Discarded Materials should be made in a manner consistent with the exercise of City's police power for the protection of public health and safety;
- H. City and Franchisee are mindful of the provisions of the laws governing the safe Collection, transport, Recycling, and Disposal of Discarded Materials, including the Act, including AB 939, AB 341, AB 1826, AB 1594, SB 1383, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901, *et seq.*, and the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601, *et seq.*;
- I. City and Franchisee desire to leave no doubts as to their respective roles and to make it clear that by entering into this Agreement, City is not thereby becoming a "generator" or an "arranger" as those terms are used in the context of CERCLA § 107 (a) (3), and that it is Franchisee, an independent entity, not City, which is "arranging for" the collection from Premises in City's jurisdiction, the transport for disposal, the collection and recycling of Recyclable materials, and Discarded Materials which may contain hazardous substances, and processing of Organic Materials;
- J. There are no places within City's limits where active landfills are located, or which are suitable for the siting of a landfill and, therefore, Solid Waste must be exported from City;

- K. City and Franchisee agree that, subject to City's exercise of its right to require the use of specific facilities as provided in Section 10.11 of this Agreement and Franchisee's right to additional compensation by reason thereof as provided in Section 10.11 of this Agreement, it is Franchisee, and not City, which will select the landfill or Approved Disposal Facility destination of the non-recyclable Discarded Materials which Franchisee will arrange to Collect, that City has not and, by this Agreement, does not instruct Franchisee on its Collection methods, nor supervise Franchisee in the Collection of waste, and nothing in this Agreement, or other action of City, must be construed to bar others from removing waste from Containers, nor to place title or right to possession to such waste in City or Franchisee (the Parties recognizing that whatever, if any, title Franchisee may gain to such waste is by operation of law, and is not the result of this Agreement);
- L. Franchisee represents and warrants to City that Franchisee has the experience, responsibility, qualifications, and knowledge of all Applicable Laws to conduct Recycling programs, provide City with information sufficient to meet City's reporting requirements under the Act, meet City's other requirements under the Act, and arrange with Residents of Premises in City for the Collection, safe transport, and Disposal of Discarded Materials which may contain small amounts of Hazardous Waste in a safe manner which must minimize the adverse effects of Collection vehicles on air quality and traffic, and that Franchisee has the ability to indemnify City in accordance with this Agreement;
- M. City Council determines and finds pursuant to Public Resources Code § 40059(a) (1) that the public interest, health, safety, and well-being, including the minimization of adverse impacts on air quality and traffic from excessive numbers of Collection vehicles, the implementation of measures consistent with City's Source Reduction and Recycling Component, and the protection of City against potential CERCLA liability, would be served if Franchisee were to be awarded a Franchise for Collection, Recycling, and Disposal of Residential Discarded Materials from Residential Premises in City; and

ARTICLE II. DEFINITIONS

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Agreement. Words and phrases not defined by this chapter have the meanings stated in the Monterey Park Municipal Code (“MPMC”), the Public Resources Code, or other commonly used words found in federal, state, and local laws and regulations.

Section 2.01 “AB 939” or the “Act” means the California Integrated Waste Management Act of 1989, codified in part at Public Resources code §§ 40000 et. seq., as it may be amended from time to time, and as implemented by the regulations of the California Integrated Waste Management Board.

Section 2.02 “AB 939” or “Administrative Fee” means the fee imposed by the City on Franchisee’s Gross Revenues because of its status as party to this Agreement, and which, inter alia, is intended to offset the City’s expenses in administering this Agreement for AB 939 compliance.

Section 2.03 “Administrator” means the City’s City Manager or designee.

Section 2.04 “Advanced Clean Fleet (ACF) Regulation” means 13 California Code of Regulations Sections 2013, 2013.1, 2013.2, 2013.3, 2013.4, 2014, 2014.1, 2014.2, 2014.3, 2015, 2015.1, 2015.2, 2015.3, 2015.4, 2015.5, 2015.6, and Public Resources Code section 2016, as it may be amended from time to time, and as implemented by the regulations of the California Air Resources Board (CARB).

Section 2.05 “Agreement” or “Franchise Agreement” means this written agreement between City and Franchisee, and all Exhibits and documents incorporated by reference, including (specifically) the Statement of Qualifications and Application submitted by Franchisee, governing provision of Discarded Materials Services, and any future amendments hereto.

Section 2.06 “Applicable Law” means all federal, state, county, and local laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, transportation, and processing of Discarded Materials that are in force on the Effective Date and as may be enacted, issued, or amended

during the Term of this Agreement. Applicable Law includes, without limitation, AB 939, AB 341, AB 1826, and SB 1383.

Section 2.07 “Approved Disposal Facility(ies)” means the Disposal Facility that was selected by Franchisee and approved by City as identified in Exhibit 14 .

Section 2.08 “Approved Facility(ies)” means any one of or any combination of the: Approved Recyclable Materials Processing Facility; Approved Organic Materials Processing Facility; Approved Transfer Facility; and/or Approved Reusable Materials Processing Facility.

Section 2.09 “Approved High Diversion Organic Waste Processing Facility(ies)” means the High Diversion Organic Waste processing facility(ies) identified in Exhibit 14.

Section 2.10 “Approved Organic Materials Processing Facility(ies)” means the Organic Materials processing facility(ies) identified in Exhibit 14.

Section 2.11 “Approved Processing Facility(ies)” means any one of or any combination of the: Approved Recyclable Materials Processing Facility; Approved Organic Materials Processing Facility; or, Approved Reusable Materials Processing Facility.

Section 2.12 “Approved Recyclable Materials Processing Facility(ies)” means the Recyclable Materials processing facility(ies) identified in Exhibit 14.

Section 2.13 “Approved Reusable Materials Processing Facility(ies)” means the Reusable Materials processing facility(ies) identified in Exhibit 14.

Section 2.14 “Approved Transfer Facility(ies)” means transfer facility(ies) identified in Exhibit 14.

Section 2.15 “Backyard Service” or “Roll Out Service” means the Collection of a Cart or Bin that includes the movement by Franchisee’s employees of the Cart or Bin from the Customer’s backyard, side yard, driveway, garage, or other location approved by the Administrator, to the Franchisee’s Collection vehicle and return of the Cart or Bin to such location.

Section 2.16 “Bins” means those Containers referred to as dumpsters and are provided for commercial, industrial, construction, and Residential Units uses. Bins are usually two or three cubic yards in size, or larger and meet the criteria set forth in Exhibit 3.

Section 2.17 “Bulky Items” means large and small household appliances, furniture, carpets, mattresses, White Goods, clothing, tires, and other similar Discarded Materials and oversized yard waste such as tree trunks and large branches if no larger than two feet in diameter and four feet in length and similar large items discarded from Residential Units. Bulky Items do not include Hazardous Waste.

Section 2.18 “CalRecycle” means the California Department of Resources Recovery and Recycling.

Section 2.19 “Carts” means the Containers provided by the Franchisee to Customers of Recycling, Organic Materials, and Solid Waste services with two wheels attached for ease of transport by an individual and meet the criteria set forth in Exhibit 3.

Section 2.20 “City” or “Grantor” means the City of Monterey Park, a general law city and municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.

Section 2.21 “City Limits” means the boundaries of City together with all amendments and changes thereto, which boundaries are shown by maps incorporated herein by reference, identified in Exhibit 1, and which are on file in the office of the City Clerk.

Section 2.22 “Collect” or “Collection” means the act of taking possession of Discarded Materials, Bulky Items, and other material at the place of generation in City.

Section 2.23 “Co-collection” means the Collection of Solid Waste and Recyclables in a Container.

Section 2.24 “Commercial Discarded Materials” means all types of Discarded Materials generated by stores, offices, governmental institutions (except state run school systems), commercial and industrial sources, institutional uses, and all other uses except Residential Units.

Section 2.25 “Commercial Premises” means any commercial, industrial, or office enterprise which generates Discarded Materials. Commercial Premises does not include Residential Units or any state run school system.

Section 2.26 “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 Cal. Code Regs. Section 17855(a)(4); or as otherwise defined in 14 Cal. Code Regs. Section 18982(a)(8).

Section 2.27 “Compostable Food Waste” means fruits, meats, seafood, bones, beans, bread, eggshells, napkins, paper plates, coffee grounds, vegetables, poultry, shellfish, rice, pasta, cheese, Food Soiled Paper, paper towels, tea bags, and other similar items.

Section 2.28 “Computer Compatibility” means ability to export and import digital data between computers without writing a custom translation software.

Section 2.29 “Construction and Demolition Waste” means the discarded building materials, packaging, wood, plaster, rock or brick, drywall, cement, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, and other similar materials from buildings and other structures (except asbestos-containing materials or other Hazardous Materials).

Section 2.30 “Consumer Price Index” or “CPI” means the Consumer Price Index (“CPI”), All Urban Consumers, All Items, Los Angeles-Long Beach-Anaheim, CA (CUURS49ASA0).

Section 2.31 “Container(s)” means Bins, Carts, compactors, and roll-off boxes.

Section 2.32 “Customer(s)” or “customer(s)” means the person(s) who has the day-to day responsibility for Discarded Materials for Residential Units. The Customer may be either the occupant or owner of the Premises.

Section 2.33 “Designated Waste” Designated Waste consists of those substances classified as Designated Waste by the State, in Water Code Section 13173, as may be amended from time to time, and is defined as either of the following:

- A. Hazardous Waste that has been granted a variance from Hazardous Waste management requirements pursuant to Health and Safety Code Section 25143.
- B. Nonhazardous waste that consists of, or contains, pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the State as contained in the appropriate state water quality control plan.

Section 2.34 “Discarded Materials” means Recyclable Materials, Organic Materials, and Solid Waste placed by a Generator in a Container and/or at a location for the purposes of Collection by Franchisee, excluding Excluded Waste. “Discarded Materials Handling” or “Handling” means the Collection, transportation, storage, transfer, or processing of Discarded Materials.

Section 2.35 “Disposal” or “Dispose” (or any variation thereof) means the final disposition of Discarded Materials or processing residue at a Disposal Facility.

Section 2.36 “Disposal Site” or “Disposal Facility” means any Solid Waste facility(ies) used for the final disposal of Discarded Materials Collected by the Franchisee.

Section 2.37 “Diversion” and “Diverted from Disposal” (or any variation thereof) has the meaning set forth in Public Resources Code Section 40124 and means to prevent Disposal of Discarded Materials at landfill or transformation facilities (including facilities using incineration, pyrolysis, distillation, gasification, or biological conversion methods) through source reduction, reuse, Recycling, composting, anaerobic digestion, or other method of processing, subsequent to the provisions of AB 939. Diversion is a broad concept that is to be inclusive of material Handling and processing changes that may occur over the Term including, without limitation, changes in standard industry practice or implementation of innovative (but not necessarily fully proven) techniques or technology that reduce Disposal risk, decrease costs, and/or other reasons deemed desirable by City.

Section 2.38 “Effective Date” means the date upon which this Agreement is finally approved, by resolution, of the City Council.

Section 2.39 “Environmental Laws” means all federal and state statutes and county and City ordinances concerning public health, safety, and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §§ 9601, *et seq.*; the Resource Conservation and Recovery Act, 42 USC §§ 6902, *et seq.*; the Federal Clean Water Act, 33 USC §§ 1251, *et seq.*; the Toxic Substances Control Act, 15 USC §§ 1601, *et seq.*; the Occupational Safety and Health Act, 29 USC §§ 651, *et seq.*; the California Hazardous Waste Control Act, California Health and Safety Code §§ 25100, *et seq.*; the California Toxic Substances Control Act, California Health and Safety Code §§ 25300, *et seq.*; the Porter-Cologne Water Quality Control Act, California Water Code §§ 13000, *et seq.*; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §§ 25249.5, *et seq.*; as currently in force or as later amended, and all rules and regulations promulgated thereunder.

Section 2.40 “E-waste” includes the wastes set forth in 22 California Code of Regulations § 66273.9 for consumer electronic devices, including CRT Devices, that exhibit characteristics of toxicity.

Section 2.41 “Excluded Waste” means hazardous substance, Hazardous Waste, infectious waste, Designated Waste, volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, waste that Franchisee reasonably believes would, as a result of or upon Disposal, be a violation of local, state, or federal law, regulation, or ordinance, including land use restrictions or conditions, waste that cannot be Disposed of in Class III landfills, waste that in Franchisee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance, or otherwise create or expose Franchisee or City to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Residential Discarded Materials after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, or household batteries when properly placed for Collection by Franchisee as set forth in this Agreement.

Section 2.42 “Food Soiled Paper” means compostable paper material that has come in contact with food scraps or liquid, such as, without limitation, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

Section 2.43 “Franchise” means the exclusive right and privilege granted pursuant to this Agreement, along with the other rights, obligations, and privileges set forth herein: (i) to arrange for the Collection of, and to Collect Discarded Materials; (ii) to transport Discarded Materials to landfill or other Approved Disposal Facilities as determined by Franchisee; and, (iii) to recycle Discarded Materials generated and/or accumulated from Residential Units; in the City Limits, except from state run school systems or lawfully operated Self-Haulers or others exempt from the Franchise as permitted by law.

Section 2.44 “Franchise Area” means the area depicted on attached Exhibit 1, which are incorporated by reference and which may be changed in accordance with this Agreement as set forth below.

Section 2.45 “Franchisee” means Ware Disposal, Inc. organized and existing under and by virtue of the laws of the State of California, with its principal place of business in Los Angeles County, and its lawful successors or assigns.

Section 2.46 “Fully Automated Collection” means a mechanized method of Collecting Solid Waste, Organic Materials, and Recyclables in which the operator of the Collection vehicle operates a mechanical device which secures a Container, such as a Residential Bin, lifts the Container and dumps the contents directly into the vehicle’s collection area, and returns the Container to the curbside or other original position without leaving the vehicle.

Section 2.47 “Generator” means any person whose act or process produces Discarded Materials as defined in the Public Resources Code, or whose act first causes Discarded Materials to become subject to regulation.

Section 2.48 “Gross Revenues” means any and all revenue or compensation in any form derived by Franchisee from services provided pursuant to this Agreement, except revenues received by Franchisee from the sale of Recyclables and any payments received from the State of California for Collecting or processing CRV materials.

Section 2.49 “Hazardous Waste” means any flammable, explosive, or radioactive materials or hazardous, toxic, or dangerous wastes, substances, or related materials or any other chemicals, materials, or substances, exposure to which is prohibited, limited or regulated by any federal, state, or local law or regulation, or which, even if not so regulated, may or could pose a hazard to public health and safety, including, without limitation, asbestos, PCBs, petroleum products and byproducts, substances defined or listed as “hazardous substances” or “toxic substances,” or similarly identified in, pursuant to, or for purposes of, the California Discarded Materials Management, Resource Recovery and Recycling Act (Government. Code §§ 66700, *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 *et seq.*); the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 *et seq.*); the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*); Health and Safety Code §§ 25117 or 25316, including the regulations promulgated thereto (see 22 Cal. Code of Regs. § 66261.3); any substances or mixture regulated under the Toxic Substance Control Act of 1976 (15 U.S.C. §§ 2601 *et seq.*); any “toxic pollutant” under the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*); any hazardous air pollutant under the Clean Air Act (42 U.S.C. §§ 7901 *et seq.*); any “hazardous waste” as defined by the Porter- Cologne Act, California Water Code, California Environmental Protection Agency or the California Integrated Waste Management Board, Federal Water Pollution Control Act, Hazardous Materials Transportation Act, by any Superfund or Superlien law, or any other federal, state, or local law or regulation. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or Discarded Materials, the term “Hazardous Waste” has the broader, more encompassing definition.

Section 2.50 “High Diversion Organic Waste Processing Facility (HDOWPF)” as defined in 14 CCR Section 18982(a)(33). Per SB 1383, the High Diversion Organic Waste Processing Facility is a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content recovery rate of 50% between January 1, 2022 and December 31, 2024, and 75% after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(e) for organic waste received from the Mixed Waste.

Section 2.51 “Holiday(s)” are defined as New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Section 2.52 “Materials Recovery Facility” means (i) A facility that separates secondary materials, such as mixed glass and metal containers, from the waste stream, and processes the materials for sale to end users; and (ii) A firm that purchases and markets Source Separated materials.

Section 2.53 “Mechanized Collection” refers to methods of Collecting Discarded Materials in which the operator of a Collection vehicle operates a mechanical device which secures a Bin or Cart which contains Discarded Materials and lifts the Bin or Cart and dumps the contents directly into the vehicle’s Collection area. “Mechanized Collection” includes Semi-Automated Collection and Fully Automated Collection.

Section 2.54 “Mixed Waste” means Recyclable Material and Solid Waste Collected in a Container that is required by 14 CCR Sections 18984.1, 18984.2, or 18984.3 to be transported to a High Diversion Organic Materials Processing Facility.

Section 2.55 “Multi-Family” or “Multi-Family Units” means apartments, condominiums and townhomes, other dwelling units other than Single-Family Units, and has the same meaning as set forth in the MPMC.

Section 2.56 “Organic Material(s)” or “Organics” means yard trimmings and Compostable Food Waste, individually or collectively. No Discarded Material may be considered to be Organic Materials, however, unless it is separated from Recyclable Material and Solid Waste.

Section 2.57 “Organic Materials Bins” means those Bins which are used for transferring Organic Materials from the Customers to the Franchisee.

Section 2.58 “Organic Materials Carts” means those Carts which are to be used for transferring Organic Materials from the customers to the Franchisee.

Section 2.59 “Organic Materials Recycling” and “Organic Materials Recycling Service” means to recycle Organic Materials in accordance with the requirements of Applicable Law.

Section 2.60 “Premises” means any land or building in the City where Discarded Materials are generated or accumulated.

Section 2.61 “Proposition 218” means Articles XIII C and XIII C of the California Constitution and any implementing legislation relating thereto, as may be amended from time to time.

Section 2.62 “Rate Year” means the period of September 1 to August 31 for each year during the Term of this Agreement.

Section 2.63 “Recyclables” or “Recyclable Materials” means a material that can be reused or processed into a form suitable for reuse through reprocessing and remanufacture. This includes, without limitation, the following materials generated in or emanating from Premises or City facilities that are no longer useful or wanted: glass jars and bottles; steel, bi-metal, and tin cans; empty aerosol containers; PET plastic; HDPE plastic; plastics types 3 – 7; plastic bags, shrink wrap, plastic toys and tools, and other plastic materials (if readily identifiable as being recyclable and delivered to a drop-off center); juice boxes and milk cartons (aseptic packaging, Tetra Pak© and waxed cardboard); scrap metal, coat hangers, and metal foil; newspaper; mixed paper (e.g., ledger, computer, junk mail, magazines, paperback books, cereal boxes, envelopes, paper shopping bags, and non-metallic wrapping paper); and telephone books, and such other materials designated by City’s Administrator, or designated as Recyclables by the California Department of Resources Recycling and Recovery, or other agency with jurisdiction, and that are Collected by Franchisee pursuant to this Agreement, or such additional materials as the City Council may designate from time to time.

Section 2.64 “Recycling” means any process by which materials that would otherwise become Solid Waste are Collected (whether Source Separated, co-mingled, or as Mixed Waste), separated or processed, and returned to the economic mainstream in the form of raw materials or products or materials that are salvaged or recovered for reuse.

Section 2.65 “Resident” or “Residential” means of, from, or pertaining to a Single-Family Premises or Multi-Family Premises including Single-Family homes, apartments, condominiums, Townhouse complexes, mobile home parks, and cooperative apartments.

Section 2.66 “Residential Discarded Materials” means all types of Discarded Materials generated from Residential Units.

Section 2.67 “Residential Recycling Container,” means a Container provided by Franchisee to Residential Premises for use in Collecting and moving Recyclable Materials to curbside for Collection by Franchisee. The Recycling Container must have a minimum capacity of 32 gallons so long as Collection occurs not less than weekly. The Container must indicate the type of material that can be placed in the Container and be identified as a Recycling Container with a Recycling logo.

Section 2.68 “Residential Account” means an account for Discarded Materials Collection and Recycling services provided to any Residential Premises.

Section 2.69 “Residential Householder” means any person holding and/or occupying residential premises, whether or not the owner, singly, or with his or her family, in City.

Section 2.70 “Residential Premises” means all property that is used for Residential purposes within City, including Single-Family Premises, Multi-Family Premises, apartment houses, condominiums, mixed condominiums and rental housing, senior citizen housing complexes, mobile home parks, and trailer parks, containing four Residential Units or less.

Section 2.71 “Residential Unit(s)” means Multi-Family Units and Single-Family Units.

Section 2.72 “SB 54” means Public Resources Code Section 41821.5, as may be amended from time to time.

Section 2.73 “SB 1383” means Senate Bill 1383 of 2016 signed by the Governor on September 19, 2016, which added Health and Safety Code Sections 39730.5, 39730.6, 39730.7, and 39730.8, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants. For the purposes of this Agreement, SB 1383 specifically refers to the Short-Lived Climate Pollutants (SLCP): Organic Materials Reductions regulations developed by CalRecycle.

Section 2.74 “Scavenging” means the unauthorized removal of Recyclable Material. Scavenging is prohibited by Public Resources Code § 41950.

Section 2.75 “Self-Haul” or “Self-Hauler” means person who hauls Discarded Materials, recovered material, or any other material, that such person generates at their own Premises, to

another person, or as otherwise defined in 14 Cal. Code of Regs. Section 18982(a)(66). Self-Hauler also includes a person who back-hauls waste from Premises they own and operate using their own vehicles, employees, and equipment, as defined in 14 Cal. Code of Regs. Section 18982(a)(66)(A).

Section 2.76 “Semi-Automated Collection” means a mechanized method of Collection in which the operator of the Collection vehicle must get out of the vehicle in order to connect the Container, such as a Residential Discarded Materials Bin, to a device which lifts the Container and dumps the contents directly into the vehicle’s collection area and returns the Container to Street level for placement at curbside or other position by the operator.

Section 2.77 “Service Level” refers to the size of a Customer’s Container(s) and the frequency of Collection service.

Section 2.78 “Single-Family” or “Single-Family Units” means a detached single-family Residential dwelling as these terms are defined in the MPMC.

Section 2.79 “Solid Waste” has the meaning defined in Public Resources Code § 40191, including all putrescible and nonputrescible solid and semi solid waste, including garbage, trash, refuse, paper, rubbish, ashes, industrial waste, discarded home and industrial appliances, manure, vegetable or animal solid waste, and other solid and semi solid waste, excluding liquid wastes, abandoned vehicles, Source-Separated Recyclable Materials, Source-Separated Organic Materials, Excluded Waste, and medical waste.

Section 2.80 “Source Separated” means the segregation, by the Generator, of materials designated for separate Collection for some form of Recycling, composting, recovery, or reuse.

Section 2.81 “Special Waste” means Discarded Materials that is a “designated waste” under Applicable Law, is required to be accompanied by a written manifest or shipping document describing the waste under Applicable Law, or requires special Handling at any processing facility or Disposal Site.

Section 2.82 “Streets” means the public streets, ways, alleys, and places within City as the same now or may hereafter exist, and in which City has the authority to grant a Franchise.

Section 2.83 “Temporary Service” means Discarded Materials Handling Services provided by Franchisee on an as-needed and temporary basis to any Premises within City in conjunction with construction, demolition, cleanup, or other projects, and by use of temporary placed Bins or roll-off boxes, excluding Self-Hauled waste.

Section 2.84 “Term” means the Term of this Agreement, as provided for in Section 5.01.

Section 2.85 “Universal Waste” means waste materials that are conditionally exempt from classification as Hazardous Waste pursuant to 22 California Code of Regulations § 66261.9, including, without limitation, batteries, computers and peripherals, printers, CRT monitors, televisions, electronic equipment, and cathode ray tubes.

Section 2.86 “White Goods” means enameled household appliances, such as refrigerators, stoves, washers and dryers, water heaters, dishwashers, trash compactors, and similar items discarded from Single-Family Residential Premises covered by this Agreement.

Section 2.87 “Working Day(s)” means days on which Franchisee is required to provide regularly scheduled Collection services under this Agreement.

Section 2.88 Section 2.88 “Yard Trimmings” means any wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds, or as otherwise defined in 14 Cal. Code of Regs. Section 117852(43).

ARTICLE III. GRANT OF FRANCHISE

Section 3.01 Grant. Subject to the terms of this Agreement and all Applicable Laws and regulations, the City Council grants to Franchisee the sole and exclusive duty, right, and privilege to operate and conduct an exclusive Franchise to Collect, transfer, recycle, compost, and Dispose of Discarded Materials, including Recyclables and/or Organic Materials from Residential Premises and City facility locations within City’s jurisdiction as set forth in the attached Exhibit 1, which is incorporated by reference. City grants Franchisee an exclusive license to make and enter into independent arrangements with Residential Units in the City in the area covered by the Franchise and agrees that it will not award a Discarded Materials franchise

for providing Discarded Materials services to Residential Premises as contemplated by this Agreement to another entity while this Agreement is validly in effect.

Section 3.02 Franchisee agrees to be bound by and comply with all the requirements of this Agreement and to comply with all federal, state, and local laws and regulations whether or not they are specifically addressed by the provisions in this Agreement.

Section 3.03 Franchisee waives any right it may have to challenge the terms of this Agreement under federal, state, or local law, or administrative regulation. Franchisee waives any right or claim to serve Residential Units in the City as its boundaries exist as of the date of the execution of this Agreement under any prior grant of franchise, contract, license, or permit issued or granted by any governmental entity including any right under the Public Resources Code. This Franchise is subject to all of the provisions of this Agreement, and to any rights, if any, which may be held by any other Discarded Materials enterprise holding rights pursuant to Public Resources Code Section 49520 or other laws.

Section 3.04 Warranties of Franchisee. Franchisee warrants and represents the following: Franchisee is a company duly organized, validly existing, and in good standing under the laws of California and is qualified and has the authority to carry out the business required by this Agreement. Franchisee has, through all actions required by law by its owners or Board, the authority to enter into this Agreement and the person(s) signing this Agreement have the authority to do so. Franchisee's officers, directors, or owners have not been found guilty of felonious conduct, bribery of public officials, fraud, deceit, false claims, racketeering, or illegal transport of Hazardous Materials. Franchisee must obtain and maintain all necessary federal, state, and local business licenses and permits.

Section 3.05 Franchisee is invited to apply for employment all former employees of the previous hauler to be displaced by the transition of Discarded Materials management under this Agreement. Franchisee must make offers of employment to all such applicants qualified for available positions with the Franchisee.

Section 3.06 City's prior rights. All privileges set forth in this Agreement are subordinate to any prior lawful use and occupancy of City's Streets. However, City represents that there are

and will be no material restrictions on Franchisee's ability to utilize City's Streets to carry out its obligations pursuant to this Agreement.

Section 3.07 Cost of operating Franchise. Any act permitted by this Agreement must be performed at Franchisee's own expense, unless expressly provided otherwise in this Franchise or Applicable Law.

Section 3.08 Annexation. Nothing in this Franchise extends Franchisee's rights under this Agreement to territory that may be annexed to City's jurisdiction after this Agreement becomes effective. The Parties may, but are not required to, negotiate for extending Franchisee's Franchise to any such annexed territory.

Section 3.09 The effectiveness of this Agreement, and the performance of the City's obligations, are subject to the satisfaction of all conditions set out below, any of which may be waived by the City in whole or in part:

- A. Accuracy of Representations. Representations and warranties made by the Franchisee in this Agreement are true and correct as of the operative date.
- B. Furnishing of Insurance and Bonds. Franchisee has furnished evidence satisfactory to the City Manager of the insurance and bonds required by the MPMC and this Agreement.

Section 3.10 Delegation of Authority. Administration of this Agreement by City will be under the supervision and direction of the City Manager. Any and all actions specified in this Agreement, unless otherwise stated, will be taken by the City Manager.

Section 3.11 General. City may direct Franchisee to perform additional services (including new Diversion programs, etc.), or to modify the manner in which it performs existing services or bills for services. Pilot programs and innovative services that may entail new Collection methods, different kinds of services or new requirements for customers, are included among the kinds of changes that City may direct. Franchisee is entitled to an equitable adjustment in its compensation for providing such additional or modified services. Franchisee is not required to perform additional services or to modify the manner in which it performs existing services or bills for services in any manner which materially and adversely alters Franchisee's rights and

obligations pursuant to this Agreement, or which increases the cost to Franchisee of providing such services, without the written consent of Franchisee.

Section 3.12 New Diversion Programs. In conjunction with the requirements of this Agreement, Franchisee must present, within 30 days of a request from City, a proposal to provide additional or expanded Diversion services. The proposal must contain a complete description of the following:

- A. Collection methodology to be employed (e.g., equipment and manpower)
- B. Equipment to be used (e.g., vehicle number, types, capacity, and age)
- C. Labor requirements (e.g., number of employees by classification)
- D. Type of Containers to be used
- E. Program publicity, education, and marketing
- F. Three-year projection of the financial results of the program's operations in an operating statement format, including documentation of the key assumptions underlying the projections and the support for those assumptions

Section 3.13 City's Right to Acquire Other Services. Franchisee acknowledges that City may permit other persons to provide additional Discarded Materials services which are not otherwise provided for in this Agreement. If City proposes to grant any such rights, City agrees to notify Franchisee in writing at least 90 days in advance. Franchisee has the first right of negotiation and to present a proposal to City with respect to provision of such additional services, whereupon City and Franchisee agree to negotiate in good faith with respect to provision of such additional services. If Franchisee and City cannot agree on terms and conditions for additional or expanded Diversion services within 90 days from the date when City first requests a proposal from Franchisee to perform those services, City may authorize persons other than Franchisee to provide those services.

ARTICLE IV. FRANCHISE EXCLUSIONS

Section 4.01 Gardeners and Landscapers. This Agreement does not prohibit gardeners and landscapers from Collecting, transporting, and composting or Disposing of green waste, as long as they transport such green waste to a Compostable Materials Handling Facility or a Composting Facility, as defined in 14 Cal. Code of Regs. § 17852, or other site permitted (or exempt from permitting) by CalRecycle in accordance with all governing laws and regulations.

Section 4.02 Sale or Gift of Recyclable Materials. This Agreement does not prohibit any person from selling Recyclable Materials or giving Recyclable Materials away to persons or entities other than Franchisee.

ARTICLE V. TERM

Section 5.01 The Term of this Agreement is for a period of seven years commencing on September 1, 2024, and ending at midnight on August 31, 2031.

Section 5.02 Notwithstanding any other provision of this Agreement, Franchisee is authorized and required to as of 30 days after the Effective Date to contact potential Customers in the City solely for the purpose of planning to provide the services that Franchisee is obligated to provide pursuant to this Agreement. These arrangements may include assessing the service needs of Customers, providing Customers with a description of Franchisee's available services, and providing Customers with education and instructional materials. Additionally, beginning on August 1, 2024, Franchisee is authorized to distribute Containers to Customers who will begin to utilize Franchisee's services commencing on September 1, 2024. Franchisee must use its best efforts to avoid conflicts with the company currently providing services to Customers and avoid interfering with services currently being provided to such Customers. Franchisee must coordinate with the City as necessary before the Effective Date and including September 1, 2024, for purposes of planning the implementation of the activities and obligations to be provided pursuant to this Agreement.

Section 5.03 Franchisee is also required to cooperate with City and any successor operator (by providing, e.g., access to landfill destination information, insurance and indemnification, and an insurance policy repository) beyond the period during which Collection services are to be pursuant to this Agreement.

ARTICLE VI. LIABILITY AND INDEMNIFICATION

Section 6.01 Franchisee agrees to the following:

- A. Franchisee, upon demand of City, made by and through City, must defend (with counsel reasonably acceptable to City), indemnify and hold harmless City, its elected officials, officers, employees, volunteers, and agents from and against any and all losses, liabilities, fines, penalties, claims, damages, liabilities, or judgments, including City's or any prevailing party other than City, attorneys' fees and costs, (collectively, "Claims") arising out of or resulting in any way from the awarding or execution of or Franchisee's exercise of the Franchise granted by this Agreement, including Franchisee's performance under this Agreement, unless such Claim is due to the sole negligence or willful acts of City, its elected officials, officers, employees, agents, or contractors. The duty of Franchisee to defend, indemnify, and hold City harmless pursuant to this Section includes, without limitation, the following:
1. Claims by government agencies or other third parties, whether judicial, administrative, or otherwise, including, without limitation Claims over the definitions of "Discarded Materials" or "Solid Waste" or "Recyclable Material" or "Organic Materials" or the limits of City's authority with respect to the grant of licenses, or Agreements (including this Agreement), exclusive or otherwise, asserting Claims under the Dormant Commerce Clause, anti-tug laws, or any other federal or state law, including, without limitation, Proposition 218.
 2. Environmental Indemnification. Claims arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure, or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Waste in any Discarded Materials Collected by Franchisee pursuant to this Residential Agreement which is or has been transported, transferred, processed, stored, Disposed of, or which has otherwise come to be located by Franchisee or its activities pursuant to this Agreement result in a release of a Hazardous Waste into the environment.

3. Claims arising from or attributable to any repair, cleanup, or detoxification, or preparation and implementation of any removal, remedial, response, closure, or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Waste in any Discarded Materials Collected by Franchisee pursuant to this Residential Agreement which is or has been transported, transferred, processed, stored, disposed of which has otherwise come to be located by Franchisee or its activities pursuant to this Agreement result in a release of a Hazardous Waste into the environment.
4. With respect to Discarded Materials Collected by Franchisee pursuant to this Residential Agreement which has been Disposed of at places not owned or operated by Franchisee, Franchisee must (i) defend, indemnify, and hold City harmless, as provided above; (ii) at City's sole discretion, cause the owner or operator of the alternate facility to deliver a Hazardous Substances Indemnification in a form satisfactory to City, or (iii) provide any combination of indemnification by the alternate facility and Franchisee satisfactory to City.
5. This Section is intended to operate as an Agreement pursuant to § 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA," 42 U.S.C. § 9607(e), and Health and Safety Code § 25364, to defend, protect, hold harmless, and indemnify from all forms of liability under CERCLA, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 *et seq.* or other similar federal, state or local law or regulation for any and all matters addressed in this Section.
6. CalRecycle Indemnification and Guarantee. Franchisee's duty to defend and indemnify herein includes all fines and/or penalties imposed by CalRecycle, if the requirements of AB 939, AB 341, AB 1826, and/or SB 1383 are not met by Franchisee with respect to Franchisee's obligations under this Agreement, and such failure is: (i) due to the failure of Franchisee to meet its obligations under this Agreement; or, (ii) due to Franchisee's delay in providing information that prevents Franchisee or County from submitting reports to regulators in a timely manner.

- B. For purposes of this Section, “City” includes City’s officers; elected and appointed officials; employees; agents; representatives; and volunteers.
- C. Franchisee expressly agrees that this release, waiver, and indemnity agreement is intended to be as broad and inclusive as is permitted by the law of the State of California and that if any portion is held invalid, it is agreed that the balance will, notwithstanding, continue in full legal force and effect.
- D. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

Section 6.02 The requirements as to the types and limits of insurance coverage to be maintained by Franchisee as required by this Agreement, and any approval of said insurance by City, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Franchisee pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

ARTICLE VII. INSURANCE

Section 7.01 Before commencing performance under this Agreement, and at all times this Agreement is effective, Franchisee must provide and maintain insurance acceptable to the City Attorney in full force and effect throughout the Term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Franchisee, its agents, representatives, or employees. The following insurance requirements will survive the termination of this Agreement. Insurance must be placed with insurers with a current A.M. Best’s rating of not less than A:VII.

Section 7.02 Franchisee will furnish to City duly authenticated endorsements and such other evidence of insurance or copies of policies as may be reasonably required by City from time to time. Insurance must reflect that the insurer will provide 30 days’ notice of any cancellation of coverage. Franchisee will require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word “endeavor” with regard to any notice provisions.

Section 7.03 Insurance Coverage must meet City's insurance requirements in accordance with the limits in this Agreement.

Section 7.04 Other Insurance Provisions. Insurance policies required by this Agreement must contain the following provisions:

- A. All Policies. Each insurance policy must be endorsed and state the coverage may not be suspended, voided, cancelled by the insurer or either party to this Agreement, or reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City.

Section 7.05 Franchisee must maintain limits of insurance in not less than:

- A. General Liability: \$10,000,000 aggregate and \$10,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit applies separately to the activities related to this Agreement or the general aggregate limit must be twice the required occurrence limit;
- B. Automobile Liability: \$10,000,000 per accident for bodily injury and property damage;
- C. Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident; and,
- D. Pollution Liability Insurance: \$4,000,000 per occurrence.

Section 7.06 General Liability and Automobile Coverages and Pollution Liability Insurance

- A. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of activities Franchisee performs, products, and completed operations of Franchisee; Premises owned, occupied, or used by Franchisee; or automobiles owned, leased, or hired or borrowed by Franchisee. The coverage may not contain special limitations on the scope of protection afforded to City, its officers, officials, or employees such that any other insurance that may be carried by City will be

excess thereto. Such insurance must be on an “occurrence,” not a “claims made,” basis and will not be cancelable or subject to reduction except upon 30 days’ prior written notice to City.

- B. Franchisee’s insurance coverage must be primary insurance as respect to City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers must apply in excess of and not contribute with, Franchisee’s insurance.
- C. Franchisee insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer’s liability.
- D. Any failure to comply with the reporting or other provisions of the policies including breaches of warranties do not affect coverage provided to the City, its officers, officials, employees, or volunteers.
- E. Commercial general liability insurance must meet or exceed the requirements of ISO-CGL Form No. CG 00 01 11 85 or 88, or equivalent. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Such insurance must be on an “occurrence,” not a “claims made,” basis and will not be cancelable or subject to reduction except upon 30 days’ prior written notice to City. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 06 92, including symbol 1 (Any Auto). The Automobile Liability policy must be endorsed to add the Motor Carrier Act endorsement (MCS-90), TL 1005, TL 1007 and/or other endorsements required by federal or state authorities.

Section 7.07 Workers’ Compensation and Employer’s Liability Coverage. Unless the Administrator otherwise agrees in writing, the insurer must agree to waive all rights of subrogation against City, its officers, officials, employees, and agents for losses arising from work performed by Franchisee for City.

Section 7.08 Other Insurance Requirements. Franchisee agrees to deposit with City, at or before the Effective Date of this Residential Agreement, certificates of insurance necessary to

satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Franchisee furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

- A. Franchisee must furnish certificates and endorsements from each subcontractor which physically performs work in City identical to those Franchisee provides.
- B. Each insurance policy must be endorsed and state the coverage may not be suspended, voided, cancelled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to City.
- C. Any deductibles or self-insured retentions must be declared to and approved by City in its reasonable judgment. At City's option, either the insurer must reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, officials, employees, and volunteers; or the Franchisee must procure a bond, in a form approved by the City Attorney, guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.
- D. Procuring such required policy or policies of insurance may not be construed to limit Franchisee's liability nor satisfy the indemnification provisions and requirements of this Agreement.

Section 7.09 Should Franchisee, for any reason, fail to obtain and maintain the insurance required by this Agreement, City may obtain such coverage at Franchisee's expense and deduct the cost of such insurance from payments due to Franchisee under this Agreement or terminate.

Section 7.10 Self-Insurance. To the extent provided by law, all or any part of any required insurance may be provided under a plan of self-insurance approved by the State of California.

ARTICLE VIII. DIVERSION STANDARDS

Section 8.01 This Agreement is part of City's efforts to comply with the provisions of the California Integrated Waste Management Act of 1989, (AB 939), AB 341, AB 1826, and SB 1383, as such from time to time may be amended and as implemented by the regulations of the California Department of Resources Recycling and Recovery ("Regulations"), as they from time to time may be amended, and City's Source Reduction and Recycling Element, as such may be amended from time to time. Franchisee must comply with both performance standards identified in Sections 8.01.A and 8.01.B with respect to the services provided under this Agreement.

A. Franchisee will ensure that the Citywide Diversion rate as reported to, and as approved by, CalRecycle remains at a minimum 50%, using CalRecycle's per capita generation and Disposal data or as CalRecycle's calculation may be revised during this Term. Franchisee agrees to work with City in order to facilitate compliance with the Act and subsequent California law including, without limitation, Public Resources Code § 41780, on an annual basis from January 1 through December 31. In the event of a determination by CalRecycle that City failed or will fail to meet its 50% Diversion rate because the waste stream under the control of Franchisee is found to be non-compliant with such goals, Franchisee and City agree to negotiate in good faith any additional Diversion programs or services that may be required to facilitate such compliance at no additional cost to the City or Customers.

B. Franchisee agrees to maintain at all times the minimum Diversion rate of 42% of all Discarded Materials collected by the Franchisee during each year of this Agreement. Franchisee acknowledges that to meet such diversion rate it cannot rely on demonstrating a "good faith effort" to satisfy this diversion rate and represents that it is solely responsible for achieving such diversion rate. Exhibit 11 sets forth how the 42% diversion rate must be calculated and reported.

C. If Franchisee utilizes the services of a material recovery facility, composting facility, or other processing facility to divert or recycle Solid Waste, Recyclable Materials, or Organic Materials received from other jurisdictions, Franchisee must base its calculation of the quantities diverted from disposal at these facilities that is reported to

the City, on the characteristics of the Solid Waste, Recyclable Materials, or Organic Materials Collected in the City. To satisfy this requirement, it may be necessary for Franchisee to conduct periodic characterization studies of the Solid Waste, Recyclable Materials and Organic Materials collected in the City by the Franchisee. City will determine if and when such studies are to be conducted. The method by which these studies are to be conducted is subject to approval by the Administrator.

D. Upon request by the Administrator, Franchisee must provide details of the methods and calculations Franchisee uses to determine the quantities of Solid Waste, Recyclable Materials and/or Organic Materials Franchisee reported to City as being diverted from disposal. Franchisee must provide this information within 10 business days of being requested to do so by the Administrator.

E. Franchisee must provide documentation to the City within thirty days of the end of each calendar year stating and supporting that calendar year's Diversion rate. Diversion from sources other than Franchisee's Collection and Diversion efforts (such as source reduction, reuse, or Recyclable Materials and Organic Materials Diverted by other enterprises, Collection of materials that are not the subject of this Agreement, or the efforts of Self-Haulers) is not to be counted as Diversion achieved by Franchisee.

Section 8.02 To the extent City receives AB 939 credit for any other Diversion City's jurisdiction, such Diversion can, with City's consent which may be withheld by the City in its sole and absolute discretion, be used by Franchisee to achieve AB 939 compliance and the above performance standards. However, such cannot be relied upon by Franchisee for purposes of achieving AB 939 compliance or the performance standards. Any failure to attain AB 939 compliance or meet the minimum Diversion rate is a material breach of this Agreement and is subject to termination and/or liquidated damages. Additionally, any such breach will result in Franchisee being liable for any and all damages resulting from such breach.

Section 8.03 Construction and Demolition Debris Diversion. Franchisee must Divert from landfilling the State-mandated Construction and Demolition Debris Diversion percentage, currently at 65% of all Construction and Demolition Waste Franchisee Collects under this Agreement. Franchisee must maintain all records necessary for purposes of reporting and

auditing this activity for each construction and demolition project with Collection services performed by Franchisee, at no additional charge. Any failure to Recycle such is a material breach of this Agreement.

Section 8.04 Franchisee must cooperate with City in Solid Waste, Recyclable Materials, and Organic Materials waste characterization studies and waste stream audits and implement measures adequate to achieve City's source reduction, Recycling and waste stream Diversion goals for the Discarded Materials stream covered by this Agreement. City established and maintained a Source Reduction and Recycling Element that was approved by the California Department of Resources Recycling and Recovery.

- A. Franchisee must provide City with a Waste Disposal and Diversion Plan as described in this Agreement by June 1, 2024, and an update of this plan on each anniversary of the Effective Date of this Agreement throughout the Term of this Agreement. This Plan must identify the arrangements Franchisee made for the secure and cost-effective Disposal of Discarded Materials for the remainder of the Term of this Agreement and include a description of the Franchisee's plans for satisfying the waste Diversion requirements of this Agreement. City must provide Franchisee with a template for use in preparing this plan which must specify the minimum acceptable standards for this plan.
- B. When requested by City, Franchisee must furnish City with full access to its transfer, processing, composting, maintenance, and Disposal facilities for purposes of determining compliance with requirements of this Agreement.

The parties desire that Franchisee achieve the greatest Diversion possible under this Agreement. In evaluating the Diversion programs and Diversion rates City may consider, without limitation, actual tons of Diversion, program effectiveness, comparison to other jurisdictions programs and Diversion rates, exercise by City of rights to designate facilities to be used by Franchisee in this Agreement, third-party Diversion before Franchisee Collection of Discarded Materials, changes in the industry and/or state laws, and other reasonably relevant factors. The parties may execute an amendment to this Agreement reflecting any changes in the Diversion rates hereunder.

ARTICLE IX. TYPES AND FREQUENCY OF SERVICE

Section 9.01 Public Health and Safety - General. In order to protect the public health and safety, arrangements made by Franchisee with its Residential Units Customers within City's jurisdiction for the Collection of Residential Discarded Materials, must provide for the Collection (using Fully Automated Collection wherever possible and using Semi-Automated Collection where Fully Automated Collection is not possible) of such waste generated or accumulated by Residential Units within the City as needed but at least once per week. All Discarded Materials that are not recycled must be Disposed at an Approved Disposal Facility. With respect to the Containers, Franchisee is responsible for providing Customers with an adequate number of Containers and to work with Customers to ensure that the total weekly Container capacity provided to Customer is adequate. The schedule and routes for Collection must be prepared by the Franchisee and provided to the Administrator before being implemented. The schedule and route must be designed to minimize the total vehicle miles and time required to service Customers. Franchisee must provide Customers with written notice of their scheduled day of Collection and provide at least 30 days' written notice of any change to such Collection date.

- A. Dedicated Routes. Franchisee must establish dedicated routes for Solid Waste, Recyclables, and Organic Materials. During its Collection process, Franchisee may not commingle Discarded Materials Collected within City with Discarded Materials Collected in other cities based on Franchisee's methodology to account for Discarded Materials Collected within City, any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement, and is specifically prohibited from combining Collection routes related to services provided pursuant to this Agreement with Collection routes for other jurisdictions it may service. Notwithstanding the foregoing, if Franchisee utilizes a methodology satisfactory to the Administrator and CalRecycle to account for one or more types of Discarded Materials Collected within City.
- B. Container Overage. If a Customer selects a Service Level with a weekly Container capacity that is inadequate to meet its weekly generation of waste such that the Customer's Carts or Container(s) are regularly overfilled and spilling litter on Collection

day, and the situation has been documented in photographs by Franchisee's employees on at least four Collection days in an eight week period, then Franchisee must report this situation to the Administrator, and if the Administrator approves, Franchisee must provide the Customer with Containers that match the Customer's weekly waste generation and bill the Customer for the new Service Level.

Section 9.02 Residential Units Solid Waste Services.

- A. Collection of Solid Waste, Source Separated Recyclables, and Organic Materials (Three-Container System). Franchisee must Collect and remove Solid Waste, Source Separated Recyclables, and Organic Materials placed in their respective Carts at the curbside on public Streets (except for Customers that subscribe to or have been qualified for Backyard Service, in which case Collection must be from locations determined by Franchisee and Customer) and Roll Out Service for Bins, from all Residential Units within City at least once every week. Multi-Family Customers receiving Bin service will receive Source Separated collection of Solid Waste, Recyclables, and Organic Materials. Franchisee agrees to provide new Fully Automated Collection Carts or cleaned and newly painted Bins for each material stream, as applicable, to all Residential Units by August 31, 2024, and to new Customers upon commencement of service. The charge for such services must be at the rates as set forth in Exhibit 2 and includes the cost of providing Roll Out Service for Bins. There may be no extra charge for Roll Out Service for Bins. Franchisee must replace or repair before the Customer's next service date, at no expense to Residential Units' Customers or City, Containers that have been reported to have been stolen and/or damaged.

Section 9.03 In the case of a complaint of a missed Collection, Franchisee must make the Collection on the date of the call if the call is received before 3:00 p.m. and on the next Collection day if the complaint is received after 3:00 p.m.

- A. Residential Service. When notified of a missed pick-up before 3:00 p.m., Franchisee must Collect the Discarded Materials that same day. If notified after 3:00 p.m., Franchisee must Collect the Discarded Materials no later than the next day.

Section 9.04 Organic Materials Collection. Franchisee must Collect and remove, at least once per week (and on the same day of the week it Collects Solid Waste Carts from Customers unless the Customer receives service more than once per week), all Organic Materials placed at the curbside in Organics Carts and Roll Out Service for Organics Bins provided by Franchisee. Franchisee agrees to provide new Fully Automated Collection Organics Carts or Organics Bins that are cleaned and newly painted to all Customers by August 31, 2024, and to new Customers upon commencement of service. The charge for such services must be at the rates set forth on Exhibit 2. There may be no extra charge for Roll Out Service for Bins. Franchisee must repair or replace before the Customer's next service date, at no expense to Customers or City, Containers that have been reported to have been stolen and/or damaged.

Section 9.05 Recyclable Material and Organic Material Containers for Multi-Family Units. Franchisee must provide all Multi-Family Units with Recycling services and Organic Materials Recycling Services in accordance with the requirements of Applicable Law. The Bins for such services must be cleaned and newly painted. Carts must be new wheeled Carts with lids that meet the specifications in Exhibit 3. The cost for such services is set forth on Exhibit 2. There may be no extra charge for Roll Out Service for Bins. Upon being notified that a Container requires repair or replacement, Franchisee at no cost to the Customer must repair or replace the Container before the Customer's next scheduled Collection day.

Section 9.06 Hours of Collection. Franchisee agrees that, in order to protect the peace and quiet of Residents, its arrangements for the Collection of Discarded Materials for Residential Units cannot start before 7:00 a.m. or continue after 6:00 p.m., Monday through Friday.

Section 9.07 Collection on Holidays. Franchisee informed City that Franchisee's arrangements with its Customers will provide that if the day of Collection on any given route falls on a legal Holiday, i.e., New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day, observed by the Materials Recovery Facility, landfill, or other lawful Disposal site to which refuse Collected within the Franchise Area is taken for Disposal, Franchisee must provide Collection service for such route on the day following such Holiday (except Sundays) and not provide Collection service on such Holiday. Franchisee must

inform City before the commencement of services under this Agreement of the Holidays that it will not be providing services.

Section 9.08 Holiday Tree Recycling. Franchisee must Collect, transport, and recycle all Holiday trees which are placed at the curbside on public Streets on the Customer's regularly scheduled Collection day, from all Residential Units within City during the period beginning on December 26 and ending on the third Saturday in January. Holiday tree Recycling services must be provided at no additional cost to the Customer.

Section 9.09 Shredding Event. For Residential service Customers, Franchisee must provide one annual shredding event at no additional charge. Franchisee may require proof of residency at such event. The location of the event must be within the City of Monterey Park and occur in the month specified by the Administrator. The limit of shredded material accepted will be three standard office storage boxes per Residential Premises. Where appropriate, this limit may be waived by Franchisee on a case-by-case basis.

Section 9.10 Procurement of Recovered Organic Waste Products. Franchisee must procure sufficient California derived compost, mulch, and/or renewable natural gas (RNG), or achieve compliance through other methods approved by CalRecycle, to meet 50% of the City's requirement for recovered organic waste products of 0.08 tons per capita per year as specified in Applicable Law. Franchisee must meet this obligation by one or a combination of the following activities:

- A. Bulk Compost and/or Mulch Reserved for Jurisdiction - Franchisee must make available for City compost or mulch in an amount requested by City for use at City's parks and facilities at no cost to City. Franchisee must be responsible for finding end-users for any remaining compost or mulch.
- B. Compost and/or Mulch Give-Away Events - Franchisee must distribute one cubic-foot bags of compost and/or mulch to City Residents at no additional cost to the City or Customers at two public compost and/or Mulch give-away events per Agreement Year (such that Franchisee will provide up to 40 tons per event). The location, date, and time of such events must be mutually agreed upon by Franchisee and the Administrator and

may be held in conjunction with other City-approved events. Franchisee must deliver the bagged compost and/or mulch to the agreed-upon event location at no cost to City. Franchisee must provide at least one attendant for at least six hours per event. Any compost and or mulch given away to the community through this program must apply to Franchisee's assistance to City with the amount of recovered organic waste products required under Applicable Law.

- C. Use of RNG in Collection vehicles.
- D. Procurement of procurement compliance attributes from SB 1383 eligible products, including RNG or biomass-to-electricity. The procured amount of procurement compliance attributes cannot exceed the amount Franchisee uses for City-related operations for each year.
- E. Other methods approved by CalRecycle.

Section 9.11 SB 1383 Procurement. Franchisee agrees that any compost, mulch, or both, provided through this Agreement must comply with the municipal procurement requirements of SB 1383, including being generated from California organic waste products, as defined by SB 1383 for each applicable material type.

Section 9.12 Franchisee Warranty of Recovered Organic Waste Products. Franchisee must provide assurance through the execution of a liability waiver stating that all organic waste products provided by the Franchisee and used within the City are free from pathogens and inorganic waste material that may be harmful to the health and welfare of City and meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 Cal. Code of Regs. Section 17852(a)(24.5)(A)(1) through (3). The Franchisee must indemnify and hold harmless City against any claims arising from contaminated recovered organic waste products provided by the Franchisee as set forth in this Section.

Section 9.13 Franchisee must Collect and remove all Discarded Materials placed in Containers from all Residential Premises affected by this Agreement within City in conformance

with the minimum frequency set forth in Applicable Law to prevent overflows and spillage from Bins.

Section 9.14 The work to be performed by Franchisee includes, without limitation, furnishing of all labor, supervision, equipment, materials, supplies, and other items necessary to perform the services required. The designation of, and specification of requirements for, particular items of labor or equipment does not relieve Franchisee of the duty to furnish all others, as may be required, whether or not identified elsewhere in this Agreement.

Section 9.15 The work to be performed by Franchisee will be performed in a thorough and professional manner so that customers within City are provided with reliable, courteous, and high-quality Discarded Materials Collection services at all times during the Term of this Agreement.

Section 9.16 Bulky Items Pick-Up. Franchisee must provide unlimited, weekly curbside Bulky Items pick-ups for Residential Units at no additional expense to such Customer or the City. Bulky Items pickups must be “on call” and completed by the next regularly scheduled Collection day from the time a Customer makes a request for such service. There is no other size or weight restrictions with respect to Bulky Items except that Franchisee is not required to remove automobile bodies, or any other items which may not be safely handled by two persons. To ensure implementation of this provision, Franchisee must provide details of its proposed Bulky Item pick-up schedule and promotional campaign, and provide City an annual report on the number of items Collected per customer location. Bulky Items Collected by Franchisee may not be landfilled or Disposed of until the following hierarchy has been followed by Franchisee:

- A. Reuse as is
- B. Disassemble for reuse or Recycling
- C. Transport Bulky Items and reusable items to the appropriate Approved Facility for reuse, processing
- D. Transport yard waste to the Approved Organic Materials Processing Facility for processing

E. Transport paper products to the Approved Source Separated Recyclable Materials Processing Facility for processing

F. Disposal

Section 9.17 Franchisee agrees to develop and carry out a community relations program acceptable to City for information related to Bulky Items.

Section 9.18 Franchisee must comply with all applicable regulations governing the recovery of ozone-depleting refrigerants during the Disposal of air conditioning or refrigeration equipment, including, without limitation 40 C.F.R. Part 82.

Section 9.19 Abandoned Item Collection. Franchisee agrees to provide on-demand pick-up of abandoned Bulky Items at City's request. Franchisee must provide this service within 24 hours of City's requests, or the end of the next business day, whichever is sooner. Franchisee must submit reports to the City regarding the quantities of materials collected, recycled, reused, and disposed, from abandoned item collection services provided.

Section 9.20 Electronic Waste. Franchisee agrees to pick up Electronic Waste from customers that request such service at least four times a year at no charge. Service is on an "on call" basis and occur on the Tuesday following the Customer's request provided that such is made by 2:00 p.m. of the preceding Monday. Franchisee must inform the Customer of how and where to place the Electronic Waste for Collection.

Section 9.21 Temporary Service. Franchisee is authorized by this Agreement to provide temporary Bin services required by Customers due to unusually high volume of Customer needs for Solid Waste, Recycling, Organic Materials, or Construction and Demolition Waste pick-up. Franchisee does not have the exclusive right to provide temporary Bin service. Temporary Bin service may be provided by Franchisee or any entity holding a Commercial Franchise in the City. Franchisee may not represent that it has the exclusive right to provide temporary Bin service. Temporary Bin service must be offered at a rate not greater than the amount specified in Exhibit 2 plus any fees assessed by the City.

Section 9.22 Backyard Service or Roll-Out Service. For Customers that are physically unable to provide their own Backyard Service, Franchisee at no cost to the Customer must provide Backyard Service. Franchisee must determine which Customers are eligible for this service within 48 hours of receiving Customer's roll-out service application as provided on Exhibit 12. For Customers that are physically able to provide Backyard Service and subscribe for such service, the charge for such service must be at the rate set forth on Exhibit 2. Franchisee may not charge extra for Roll Out Service for Bins. Upon request, Franchisee must provide documentation and list of Customers approved and/or denied Backyard Service to the City within 10 business days of being requested to do so by the Administrator.

Section 9.23 Development and Review of Collection Specifications. Franchisee must work with City to develop standard specifications for Collection Container enclosures at new or remodeled Multi-Family Premises in alignment with the MPMC when requested by City or Customer. These specifications must be developed to ensure that the Collection Container enclosures are built to provide adequate space for and suitable configuration to allow the Franchisee to safely and efficiently service Recyclable Materials, Organic Materials, and Solid Waste Containers.

Section 9.24 Large Venue and Event Assistance, Event Recycling. If requested by City, Franchisee must assist large venue and large event within the City with reporting and planning needs to provide Recycling and Organic Materials Diversion as may be useful in meeting the requirements of AB 2176 and SB 1383, and in lowering Disposal quantities generated at such events. Reporting and planning assistance is to be provided at no additional charge. The charge for Collection services must be at the rates set forth on Exhibit 2.

Section 9.25 Quarterly Community Drop-off Events. Franchisee must promote and conduct four community drop-off events per calendar year for Collecting Bulky Items and E-waste from the Residential Premises in City. This program must comply with all applicable regulatory requirements, be scheduled on a date and location mutually acceptable to Franchisee and City and impose no additional cost upon City or service recipients. Franchisee is responsible for all aspects of the program, including without limitation, selecting the location, obtaining all applicable permits, traffic control, on-site security, and public information, as well as Collection,

packing, transportation, and safe Disposal of all waste Collected. The term “On-site security” refers to traffic control and verification of eligibility within the off-street Premises utilized for such events, but does not include traffic control on City Streets or providing security that is customarily provided by law enforcement. Neither City nor City’s Residents will be designated as the Generator.

Section 9.26 Warning Notice. Franchisee must notify customers who have non-Recyclable Materials in their Source Separated Recyclable Materials Container or non-Organic Materials in their Organic Materials Container in accordance with procedures to be agreed upon between City and Franchisee. If, after following this procedure, the Container continues to be contaminated, Franchisee may remove the Container from customers who fail to sort properly and who fail to segregate Recyclable Materials and Organic Materials in accordance with City-approved policy. Franchisee must report to City on all warning notices that have been issued of issuing the notice on a monthly basis. Sending a copy of the notice(s) with the monthly report will satisfy this requirement.

Section 9.27 Holiday Tree Collection Program. Franchisee must conduct an annual holiday tree Collection program. The program will include Collection from all Residential Premises. The curbside Collection period must commence on the first Collection day after December 25 and will conclude on the third Friday of January. Franchisee must cooperate with City in the scheduling and operation of the holiday tree Collection program. Additionally, Franchisee will provide one or more large Bins for centralized holiday tree Collection at a City facility.

Section 9.28 End Uses for Organic Materials. Franchisee will use reasonable efforts to Divert from Disposal all Organic Materials Collected through curbside Collection, and through holiday tree Collections. Franchisee will also use reasonable efforts to provide end uses for Organic Materials that maximize Diversion credits for City in accordance with regulations established by CalRecycle.

ARTICLE X. OPERATIONS

Section 10.01 Operations

- A. Hours of Collection. Franchisee's arrangements for Collecting Discarded Materials must provide that Collections cannot start before 7 a.m. or continue after 6 p.m., Monday through Friday, nor before 7 a.m. nor after 6 p.m. for Collections on Saturdays following Holidays. This time may be extended occasionally in the event that Collection is delayed due to unanticipated mechanical breakdown of equipment, unanticipated illnesses of designated drivers, rain, flood, earthquake, or other forces majeure beyond the reasonable control of Franchisee.

- B. Collection on Holidays. Notwithstanding any other provision of this Agreement to the contrary, Collections need not occur if the regularly scheduled day of Collection on any route in City falls on a day on which a legal Holiday is observed by the landfill, transformation, Materials Recovery Facility, or Compostable Materials Handling Facility destination of the Discarded Materials to be Collected by Franchisee (presently New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day). Franchisee will provide Collection service on the day following the day on which the Holiday is observed. Regular Collection days falling later in the same week must be delayed one day, except that routes scheduled to be Collected on a Friday following the observation of a Holiday must be Collected on Saturday. Regular Collection schedules must be resumed the following week. Franchisee must advertise changes in its Collection schedules in a newspaper of general circulation adjudicated for City.

- C. Schedules. Franchisee must review annually with City its operation plan outlining the Collection routes, intervals of Collection, and Collection times for all materials Collected under this Agreement, upon 30 days' written notice by City requesting such review. More frequent reviews may be required if operations are not satisfactory, based on documented observations or reports of complaints. If the plan is determined by City to be inadequate, Franchisee must modify its plan by incorporating changes into a revised plan and reviewing that revised plan with City within 30 calendar days.

Section 10.02 Container Ownership and Maintenance Responsibilities. Franchisee is responsible for Container repair and maintenance, graffiti removal, and replacing lost, stolen. or damaged Containers within five business days at no additional charge to City. Franchisee may,

however, charge the user for repairing or replacing a Container if the damage is due to the user's willful negligence or abuse. In no event may this charge be greater than the Franchisee's actual cost for replacement parts or a new Container, or \$50. All Containers provided under this Agreement are Franchisee's property and City may direct Franchisee to remove the Containers at the end of the Agreement at no charge, should City so desire.

Section 10.03 Bins. Franchisee must maintain its Containers in a clean and sound condition, free from putrescible residue. Containers must be equipped with reflectors or reflective tape to enhance visibility. Containers must be constructed of heavy metal, or other durable material, and must be watertight and well painted. Wheels, forklift slots, and other appurtenances, which are designed for movement, loading, or unloading of the Container, must be maintained in good repair. Franchisee must inspect, and if necessary, clean or replace all Containers once each year at no charge. Franchisee must perform cleaning or replacement of Containers more frequently, if necessary, for an additional fee, to prevent a nuisance caused by odors or vector harborage. City may request additional cleanings at price designated between Franchisee and City. Franchisee must remove graffiti from any Container within five business days of request by City or users. Each Bin placed in City by Franchisee must have the name and phone number of Franchisee in letters not less than three inches high on the exterior of the Container so as to be visible when the Container is placed for use. Each Container must be labeled with a conspicuous warning: "Not to be used for the Disposal of hazardous, electronic or universal waste."

Section 10.04 Roll-off Boxes. Franchisee must provide clean roll-off boxes, free from graffiti and equipped with reflectors. Franchisee must properly cover all open roll-off boxes during transport to and from the Disposal Site.

Section 10.05 Litter Abatement

- A. Minimization of Spills. Franchisee must use due care to prevent Discarded Materials or fluids from leaking or being spilled or scattered during the Collection or transportation process. If any Discarded Materials or fluids leak or are spilled during Collection, Franchisee must promptly clean up those materials. Each Collection vehicle must carry a broom, sand, and shovel at all times for this purpose. Franchisee may not, without City's prior written consent, transfer loads from one vehicle to another on any public Street,

unless it is necessary to do so because of mechanical failure, accidental damage to a vehicle, or a pre-approved method of Discarded Materials transfer between vehicles.

- B. Clean Up. During the Collection or transportation process, Franchisee must clean up litter in the immediate vicinity of any Discarded Materials storage or Collection area under its control or as a result of Franchisee actions. If Franchisee arrives at a Residential Collection area with existing litter, Franchisee must photo document the pre-existing condition and report the condition to the City Manager, or designee. Franchisee must identify instances of repeated spillage caused by users and must report those instances to the City Manager, or designee. City must attempt to rectify such situations directly with the user, if Franchisee has already attempted to do so without success.

Section 10.06 Personnel

- A. Franchisee must furnish qualified drivers, mechanical, supervisory, clerical, management, and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical, and efficient manner. All drivers must be trained and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.
- B. Franchisee must establish and vigorously enforce an educational program to train Franchisee's employees in the identification of Hazardous Waste. Franchisee's employees must not knowingly place any Hazardous Waste in the Collection vehicles, nor knowingly Dispose of any Hazardous Wastes at a processing facility or Disposal Site.
- C. Franchisee must train its employees in customer courtesy, prohibit the use of loud or profane language, and instruct Collection crews to perform all work quietly. Franchisee must use its best efforts to ensure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Franchisee must take all necessary corrective measures including, without limitation, transfer, discipline, or termination. If City notified Franchisee of a complaint related to discourteous or improper behavior, Franchisee must consider reassigning the employee to

duties not involving contact with the public in City of while Franchisee is pursuing its investigation and corrective actions.

- D. Franchisee must provide suitable operations, health, and safety training for all of its employees who use or operate equipment or who are otherwise directly involved in Collection or related operations.

Section 10.07 Identification Required. Franchisee must provide its employees, subsidiaries, and subcontractors with identification for all individuals who may have personal contact with Residents in City. Franchisee must provide a list of current employees, subsidiaries, and subcontractors to the City Manager, or designee, upon request.

- A. City may, at its sole discretion, conduct through law enforcement agencies a security and identification check of Franchisee, and its present and future employees, in accordance with accepted procedures established by City.

Section 10.08 Non-Discrimination. Franchisee may not discriminate in the provision of service or the employment of persons engaged in the performance of this Agreement on account of race, color, religion, sex, age, or physical handicap or medical condition in violation of any applicable federal or state law, except to the extent that any physical handicap or medical condition directly affects the ability of an employee to carry out the essential functions of their employment as provided by applicable federal or state law.

Section 10.09 Change in Collection Schedule. Franchisee must notify City 45 days before, and Residential Accounts not later than 14 days before, any change in Collection operations that results in a change in the day on which Residential Discarded Materials Collection occurs. Franchisee cannot allow any customer to be without service for more than seven calendar days in connection with a Collection schedule change. City's approval of any change in Residential Collection is required before such change. This approval cannot be unreasonably withheld.

Any changes in the route map or Collection schedule require the prior approval of the City Manager, or designee. City may request changes in the route map or Collection schedule to improve service, to resolve complaints, or for other reasons, and Franchisee agrees to implement such requests unless such requests unreasonably interfere with the orderly and economical

provision of services as provided in this Agreement. In the event of any disagreements, City and Franchisee agree to meet and confer in good faith in an attempt to resolve such disagreements. Route maps to be submitted with the Annual Report.

Section 10.10 Report of Accumulation of Discarded Materials; Unauthorized Dumping. Franchisee must direct its drivers to note the addresses of any Premises at which they observe that Discarded Materials are accumulating and is not being delivered for Collection, and the address, or other location description, at which Discarded Materials have been dumped in an apparently unauthorized manner. Franchisee must deliver the address or description to City within five Working Days of such observation. Franchisee must cooperate with City in the investigation and prosecution of any violations of the MPMC.

Section 10.11 Transportation of Discarded Materials. Franchisee must transport all Discarded Materials Collected in City to a properly permitted transfer station, Materials Recovery Facility, or Disposal Site. In addition, City may approve the use of a particular transfer station, Materials Recovery Facility, or Disposal Site. Franchisee agrees to make commercially reasonable efforts to divert single stream Recyclable Materials, Source Separated Recyclable Materials, and Organic Materials from landfill Disposal to such locations approved by City.

- A. Franchisee must maintain complete, accurate and up-to-date records of the quantities of Discarded Materials transported to the transfer station, Materials Recovery Facility, transformation facility, or Disposal Site and must cooperate with City in any audits or investigations of those quantities.

Section 10.12 Disposal of Discarded Materials and Processing Facilities.

- A. Use of Approved Facilities. Franchisee, without constraint and as a free-market business decision in accepting this Agreement, agrees to use the Approved Facilities, included in Exhibit 14, for the purposes of transferring and processing and/or Disposing of all Discarded Materials Collected in City. Subject to events of Force Majeure or uncontrollable circumstances, use of a facility that is not included in Exhibit 14 must be approved, in writing, by City before use consistent with the requirements of Article 9 .

- B. Transfer. Franchisee plans to transport Recyclable Materials and Organic Materials to the Approved Transfer Facility where the materials will be unloaded from Collection vehicles and loaded into large-capacity vehicles and transported to the Approved Processing Facilities. Franchisee must keep all existing permits and approvals necessary for use of the Approved Transfer Facility in full regulatory compliance. Upon request, Franchisee must provide copies of facility permits and/or notices of violations (obtained from its transfer facility subcontractor if necessary) to Administrator. If Franchisee is unable to use the Approved Transfer Facility, then the Franchisee is responsible for making other transportation arrangements. In such event, Franchisee will not be compensated for any additional costs. If the Franchisee plans to change its transfer method, Franchisee must obtain written approval from the City before making the change.
- C. Processing. Franchisee must transport and deliver all Source Separated Recyclable Materials placed in Recyclable Material Containers to the Approved Recyclable Materials Processing Facility and Source Separated Organic Materials placed in Organic Material Containers within City to the Approved Organic Materials Processing Facility. All tipping fees and other costs associated with transporting to and processing of such Recyclable and Organic Materials at the Approved Processing Facilities and Disposing of the residue as required by this Agreement must be paid by Franchisee.
- D. Marketing and Sale of Recyclable and Organic Materials. Franchisee must be responsible for marketing Recyclable Materials and Organic Materials Collected in the City that are delivered for Processing at the Approved Processing Facilities. Franchisee's marketing strategy must promote the highest and best use of materials presented in the waste management hierarchy established by AB 939. Where practical, the marketing strategy should include use of local markets for Recyclable and Organic Materials.

- E. Capacity Guarantee. Subject to events of Force Majeure/Uncontrollable Circumstances, Franchisee guarantees sufficient capacity at the Approved Processing Facilities to process all Source Separated Recyclable and Organic Materials Collected by Franchisee under this Agreement throughout the Term of the Agreement; provided, however, that Franchisee makes no guaranty with respect to the capacity of any county facilities to the extent Organic Materials are handled at county facilities.

- F. Compliance with regulatory requirements and Applicable Law. Franchisee must keep all existing permits and approvals necessary for use of the Approved Processing Facilities in full regulatory compliance. Upon request, Franchisee must provide copies of facility permits and/or notices of violations (obtained from its processing facility subcontractor if necessary) to Administrator.

- G. Notification of Emergency Conditions. Each Approved Facility and/or Franchisee must notify City of any unforeseen operational restrictions that have been imposed upon the facility by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent the facility from processing the Discarded Materials Collected under this Agreement.

- H. Approved Facility(ies) Unavailable/Use of Alternative Facility(ies). If Franchisee is unable to use the Approved Processing Facility due to an event that meets the requirements for excusing Franchisee from performance of this specific obligation, Franchisee must use an alternative processing facility provided that the Franchisee provides written notice to Administrator. Within 48 hours of an emergency or sudden and unforeseen closure, Franchisee must provide a written description of the reasons the use of the Approved Processing Facility is not feasible, and the period of time Franchisee proposes to use the alternative processing facility. Such a change in processing facility must be temporarily permitted until such time as the Administrator is able to consider and respond to the use of the proposed alternative processing facility. If the use of the proposed alternative processing facility is anticipated to or actually does exceed 30 days in a consecutive 12 month period, the use of such processing facility is subject to

approval by the Administrator. The Administrator may, approve, conditionally approve, temporarily approve, or disapprove of the use of the proposed alternative processing facility. If City disapproves the use of the proposed alternative processing facility, the Parties must meet and confer to determine an acceptable processing facility.

1. If the use of an alternative processing facility is for reasons within Franchisee's control Franchisee's compensation may not be adjusted for any change in transportation and processing costs associated with use of the alternative processing facility. However, if the use of an alternative processing facility is due to reasons beyond Franchisee's control, then City may adjust, either up or down, Franchisee's compensation for changes in transportation and processing costs associated with the use of the alternative processing facility. Should the change in the processing facility result in increased costs, City may identify and direct Franchisee to an alternative processing facility, at the Franchisee's expense, which results in less cost than the Franchisee-identified alternative.
2. Except for the emergency conditions, Franchisee may not change its selection of the Approved Processing Facilities without City written approval, which will not be unreasonably withheld in City's sole discretion. If Franchisee elects to use a processing facility that is different than the initial Approved Processing Facilities, it must request written approval from the Administrator 360 calendar days before use of the site and obtain City's written approval not later than 10 calendar days before use of the site. Failure to meet the requirements of this Section may result in liquidated damages.
3. Franchisee must observe and comply with all regulations in effect at the Approved Processing Facilities and cooperate with and take direction from the operator thereof with respect to delivery of Recyclable and Organic Materials. Franchisee must actively work with the Approved Processing Facility operators throughout the Term of this Agreement to ensure that contamination of the Recyclable and Organic Materials Collected under this Agreement and delivered to the processing facility remains below the limits established by Applicable Law.

- I. Residue Disposal. Residue from the processing of Recyclable and Organic Materials Collected under this Agreement at the Approved Processing Facilities, which cannot be marketed, must be Disposed of by Franchisee, or the processing facility subcontractor. Residue delivered for Disposal may not include any Excluded Waste.

- J. Compostable Plastics. If compostable plastics are accepted at the Approved Organic Materials Processing Facility, Customers may place compostable plastics in the Organic Materials Container for Collection, including compostable plastic bags used by Customers to contain Food Waste before placement in the Organic Materials Container for Collection. Franchisee may prohibit use of compostable plastics in Organic Material Containers. Franchisee may Collect and transport such materials for processing at the Approved Organic Materials Processing Facility. At least three months before the commencement of the Agreement, and every June 1 annually thereafter, Franchisee must provide a written notification to Administrator authorizing that the facility has and will continue to have the capability to process and recover the compostable plastics throughout the Term of the Agreement; and the Franchisee may not revoke this authorization at any time during the Term of the Agreement. If at any time during the Term of the Agreement the Approved Organic Materials Processing Facility can no longer accept and/or process compostable plastics, Franchisee must notify City within seven days of the facility's inability to accept the compostable plastics. The notification must, at a minimum, include: the date and a description of the reasons that the facility is not able to process and recover the compostable plastics; the period of time the facility will not process and recover these materials; and the Franchisee's proposed plan to find an alternative facility or arrangement to process the compostable plastics, subject to City approval. City may prohibit or restrict the use of compostable plastics, with a six month notice to Franchisee, and this does not constitute a City-directed change in scope or change in law under this Agreement.

- K. Franchisee must use the Approved Disposal Facility identified in Exhibit 14. Franchisee covenants that it will use its commercially reasonable best efforts to determine whether landfills to be utilized by Approved Disposal Facilities are properly permitted, are classified as a Class 3 landfill (permitted to receive only municipal Discarded Materials),

are in compliance with all Applicable Law, and are not on or being considered for inclusion on a state or federal Superfund list, or CalRecycle list of Solid Waste facilities failing to meet State minimum standards. Except as otherwise set forth in this Agreement, Franchisee must Dispose of all Discarded Materials Collected in City at the Approved Disposal Sites, at Franchisee's expense and in accordance with all Applicable Law.

- L. Franchisee covenants that the Approved Recycling Facility in Exhibit 14 is properly permitted and in compliance with all Applicable Law. Franchisee must deliver all Recyclable Materials Collected in City to the Approved Recycling Facility for processing or transfer to a permitted processing facility, at Franchisee's expense and in accordance with all Applicable Law. Franchisee must ensure that, after processing, residue material cannot exceed the amount permitted by Applicable Law. Franchisee must ensure that Recyclable Materials are used in a manner that is classified as Diversion pursuant to applicable California law. Franchisee must contact City if changes in the Recycling facility designation are made.

- M. Franchisee must use the Approved Organic Materials Processing Facility in Exhibit 14. Franchisee covenants that the Approved Organic Materials Processing Facility is properly permitted for the processing of Organic Materials and complies with all Applicable Law. Franchisee must deliver all Organic Materials Collected in City to the Approved Facilities for processing or transfer to a permitted facility. If any such delivery to the Approved Facilities would not result in City receiving credit in calculating its Diversion Rate for having diverted the Organic Materials from Disposal in a landfill, another facility must be selected. Franchisee must ensure that Organic Materials are processed in accordance with Applicable Law, and used in a manner that is classified as Diversion.

- N. Franchisee must use its commercially reasonable best efforts to ensure that the Approved Facilities are properly permitted and in compliance with Applicable Law at all times during the Term. Franchisee must immediately inform the City Manager in writing in the event of any non-compliance, and City, in its sole discretion, has the right to require the use of a different Disposal or processing facility, to be selected by Franchisee. The City Council may also, in its sole discretion, require the use of a different site at any time

during the Term if the Approved Facilities are found to not be in compliance with the provisions of this Section and City Council reasonably determines, after written notice to Franchisee and the opportunity for a hearing if requested, that Approved Facilities are not acceptable due to a failure to materially comply with the terms of this Agreement or a finding by state or federal regulatory agencies that it is not in material compliance with Applicable Law, including the Environmental Laws, and is unable to accept City's Solid Waste, Organic Materials, or Recyclable Materials (as the case may be). Under no circumstances, however, can a change in one or more of the Approved Facilities due to a failure of compliance as set forth above provide a basis for an increase in the Rates.

Section 10.13 Annual Route Audit. At least once annually, Franchisee must conduct an internal audit of its Collection routes in City. The annual route audit must be prepared in form and content reasonably acceptable to the City Manager, or designee, and must include the truck identity, number and size of Containers, and the weight of the Discarded Materials delivered to the transfer station or Disposal Site. Results of the annual route audit will be available for review by City.

Section 10.14 Service Description. Franchisee must, within 15 days before the effective date of a service change, prepare and distribute, subject to the direction of City, a notice to each account setting forth the annual Holiday schedule, Recycling programs offered, and a general summary of services required to be provided under this Agreement and optional services that may be furnished by Franchisee. This notice must be in a form that is subject to the reasonable approval of the City Manager before its distribution. The notice may also be included as part of Franchisee's public education plan.

Section 10.15 Scavenging - Discouragement. Franchisee will take whatever reasonable actions that are commercially practicable (e.g., actions seeking to enjoin organized scavengers) which may be appropriate and effective to discourage Scavenging of Recyclable Materials from Customer Containers.

Section 10.16 Public Awareness Programs. Franchisee will develop and implement a "Promotional Plan" for the Discarded Materials and recycling programs, with goals, strategies,

and timetables (at no additional cost to City or Customers). At a minimum, the Promotional Plan must include the following:

- A. Information regarding to City's requirements under the Act, Bulky Items pick-ups, drop-off programs, and the importance of the safe Disposal of household Hazardous Waste and Holiday programs.
- B. Franchisee will provide and distribute literature in the form of newsletters, fliers, door hangers, cards, stickers, or otherwise as Franchisee determines to be most effective. All material to be reviewed by City in advance of publication and must be written in English.
- C. Newsletters must be published twice during the first year, and quarterly thereafter., with the information set forth above. Newsletter must be published in English. All material to be reviewed by City in advance of publication.
- D. Distribution of a newsletter within seven days to any new customer.
- E. Other promotional activities to achieve the goals of this Agreement, including participation in local activities, cleanup days, parades, and civic events including, without limitation, those listed in the Scope of Work, which is incorporated by reference.
- F. Franchisee must make all public education and outreach materials required by this Section available in English, Spanish, and Chinese (Mandarin and Cantonese). Upon City's request, Franchisee must provide materials in additional languages beyond those specified in this Section in response to shifting demographics within the City; updates to State requirements or Applicable Law; or any other reasonably deemed appropriate by City. If additional languages are utilized in the future, Franchisee may use QR Codes to assist Customers with specific languages and for specific programs.

Section 10.17 Change in Size or Number of Containers. By written or telephonic request Customers may request to exchange Recycling Containers without charge for different sizes, add extra Containers or reduce the number of their Containers. Franchisee must exchange, deliver and/or remove Container(s) in accordance with Customers' requests.

Section 10.18 Franchisee must repaint and relabel, to the extent necessary, any Container which is impacted by graffiti within two business days after Franchisee receives notice of any such graffiti.

ARTICLE XI. COLLECTION AND CONTAINER EQUIPMENT AND PERSONNEL

Section 11.01 Vehicle Requirements. Franchisee warrants that it must provide an adequate number of vehicles and all equipment for all of the services for which it is responsible for performing under this Agreement. At all times that Collection is occurring, Franchisee must maintain an emergency service vehicle and field supervisor to respond to complaints, service problems, or emergency calls. Franchisee warrants that it will comply with all measures and procedures promulgated by all agencies with jurisdiction over the safe, sanitary operation of all its equipment.

- A. Franchisee agrees to comply with ACF Regulation and Zero Emission Vehicle (ZEV) requirements at no additional charge.

Section 11.02 Vehicles used for the Collection of Discarded Materials must not be more than ten years old following a phase-in period which would not commence until after the first 12 months of the Agreement, on September 1, 2025. Vehicles must have a backup alarm and maintained in “like new” condition during the Term of this Agreement. Franchisee must use Fully Automated Collection vehicles wherever possible, and use Semi-Automated Collection vehicles where Fully Automated Collection vehicles are not possible to use and may use other vehicles only when Semi-Automated Collection Vehicles are not possible to use. All such vehicles must be watertight and leak-proof and comply with all federal, state, and local laws and regulations.

Section 11.03 Vehicles must be of uniform color and company markings; bear the Franchisee’s name and telephone number and vehicle identification number in lettering of at least two inches in height; be kept in good repair; inspected daily and maintained in a clean appearance, including free of dirt and graffiti; and not be stored on any public Street or other property owned by City.

Section 11.04 Vehicle may not exceed the gross vehicle weight of the manufacturer's or the California Vehicle Code's limits; and be in compliance with AQMD Rule 1193.

Section 11.05 Any Discarded Materials dropped or spilled during Collection, transfer, or transportation must be immediately cleaned up or removed by Franchisee. Each vehicle must be equipped with a broom, absorbent, shovel, and bucket for purposes of cleaning up leaks and debris dripping from or falling from vehicles, or Containers.

Section 11.06 To protect peace and quiet in Residential areas, the noise level generated by compaction vehicles using compaction mechanisms during the stationary compaction process may not exceed the stricter of MPMC Chapter 9.53 noise standards or 75 decibels at a distance of 25 feet from the Collection vehicle measured at an elevation of five feet above ground level. Noise level testing must be undertaken when so ordered by Administrator.

Section 11.07 Franchisee must prepare and keep current, a written contingency plan describing the arrangements and provisions Franchisee has made to provide vehicles and personnel to maintain uninterrupted service during mechanical breakdowns or other emergencies. This plan should be consistent with and coordinated with City's emergency plans. The schedule for submittal of this plan to City is described in Exhibit 10.

Section 11.08 Franchisee is responsible for noting the addresses of any Premises at which they observe that Discarded Materials are accumulating and not being delivered for Collection and the address, or other location description, at which such waste has been dumped in an apparently unauthorized manner. Franchisee must deliver this information to the Administrator within three business days of such observation.

Section 11.09 Should the Administrator at any time give notification in writing to Franchisee that any vehicle does not comply with the standards specified in this Agreement, that vehicle must be removed from service by Franchisee immediately and may not be used until inspected and approved in writing by the Administrator.

Section 11.10 Containers Provided to Customers. Franchisee may provide Containers to new Customers requesting service initiation within three Working Days of Franchisee's first receipt of the Customer request. Franchisee-provided Containers must be new or fully refurbished in as-

new condition and comply with the Container standards set forth in Exhibit 3. All Containers must display the Franchisee's name, logo, telephone number, website, capacity (yards or gallons), and some identifying inventory or serial number.

- A. Container Maintenance. Upon City request, Franchisee must remove or replace Customer Containers with graffiti and/or paint within three Working Days of notification from City at no charge.

Section 11.11 Franchisee warrants that it will comply with all measures and procedures promulgated by all agencies with jurisdiction over the safe and sanitary operation of all its equipment.

Section 11.12 Franchisee agrees to use its best efforts to prevent damage to private streets over which its Collection equipment may be operated, to obtain all required approvals for operation of its Collection vehicles on private streets.

ARTICLE XII. PRIVACY

Section 12.01 General. Franchisee must strictly observe and protect the rights of privacy of Customers. Information identifying individual Customers, or the composition or contents of a service recipient's Discarded Materials may not be revealed to any person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision does not preclude Franchisee from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by City, be required by the Act, or preparing and distributing public awareness materials to customers.

Section 12.02 Franchisee may not market or distribute mailing lists with the names and addresses of Customers except such lists and details on the services provided to the Customers must be provided to the Administrator.

Section 12.03 Privacy Rights Cumulative. The rights accorded Customers pursuant to this Section is in addition to any other privacy rights accorded Customers pursuant to federal or state law.

ARTICLE XIII. SERVICE EXCEPTIONS; HAZARDOUS WASTE NOTIFICATIONS;
CONTAMINATION AND COMPLIANCE MONITORING.

Section 13.01 Service Exceptions.

- A. Hazardous Waste. When service is not provided to any Customer, Franchisee must notify its Customer in writing why the Collection was not made by leaving a tag at least 3-1/2 inches by 6-3/4 inches stating the reasons why the Collection was not made. The tag must set forth the Franchisee's business's name and telephone number and be securely fastened to the Container(s) or article of Discarded Materials Franchisee has represented to City that Franchisee will carry out its duties to notify all agencies with jurisdiction, including the California Department of Toxic Substances Control and Local Emergency Response Providers, and, if appropriate, the National Response Center, of reportable quantities of Hazardous Waste, found or observed in Discarded Materials anywhere within the City, including on, in, under, or about City property, including Streets, easements, rights of way, and City waste Containers. In addition to other required notifications, if Franchisee observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Waste unlawfully Disposed of or released on City property, including Streets, storm drains, or public rights of way, Franchisee also will immediately notify the Administrator, or the Administrator's designee.
- B. Disaster Waivers. In the event of a disaster, the City may grant Franchisee a waiver of some or all Discarded Materials Collection requirements under this in the disaster-affected areas for the duration of the waiver, provided that such waiver is approved by CalRecycle. Any resulting changes in Collection requirements will be addressed as a change in scope in accordance with this Agreement.
- C. Quarantined Waste. If approved by the City, the Franchisee may Dispose of, rather than process, specific types of Organic Materials and/or Recyclable Materials that are subject to quarantine and meet the requirements described in 14 Cal. Code of Regs. Section 18984.13(d) for a period of time specified by the City or until the City provides notice that the quarantine has been removed and directs Franchisee to transport the materials to the Approved Facilities for such material.

- D. Franchisee must maintain records and submit reports regarding compliance agreements for quarantined Organic Materials and Recyclable Materials that are Disposed of pursuant to this Agreement.
- E. Waivers. Upon Customer request, and with written approval from the Administrator, Franchisee must cease providing, and collecting payment for, Collection services to a Premises which is anticipated to be vacant for no less than 30 days. In addition, upon written direction from the Administrator, Franchisee must modify or otherwise cease providing Collection services to Customers requesting other service exemptions, provided that such Customers consistently demonstrate the ability to responsibly manage Discarded Materials generated at the Premises in question, in a manner consistent with Applicable Law. City may grant waivers described in this Section for Multi-Family properties with five or more units provided, the Generator must continue to subscribe with Franchisee for franchised Collection services to the extent such services are not waived by the City. Waivers issued are subject to compliance with Applicable Law, pursuant to 14 Cal. Code of Regs. Section 18984.11, or other requirements specified by the City in compliance with Applicable Law.

1. Types of Generator Waivers.

- a. De Minimus Waivers. For Multi-Family properties with five or more units, City may waive a Multi-Family property's obligation to comply with some or all of the Recyclable Materials and Organic Materials requirements set forth in this Agreement if the Generator provides documentation or City has evidence demonstrating one of the following de minimis conditions:
- i. The Multi-Family Generator's total Discarded Materials Collection service is two cubic yards or more per week, and Organic Materials subject to Collection in a Recyclable Materials Container or Organic Materials Container comprises less than 20 gallons per week, per applicable Container, of the Generator's total waste; or

- ii. The Multi-Family Generator's total Discarded Materials Collection service is less than two cubic yards per week, and Organic Materials subject to Collection in a Recyclable Materials Container or Organic Materials Container comprises less than 10 gallons per week, per applicable Container, of the Generator's total waste.
 - b. Physical Space Waivers. For Multi-Family properties with five or more units, City may waive a Multi-Family Generator's obligation to comply with some or all of the Recyclable Materials and Organic Materials requirements set forth in this Agreement if the Multi-Family Generator provides documentation, or City has evidence, the Franchisee, licensed architect, engineer, or similarly qualified source demonstrating that the Premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials Containers.
2. Franchisee Review of Waiver Requests. Generators may submit requests for de minimis waivers and physical space waivers to the City or Franchisee. The City must notify Franchisee of the request, and Franchisee must within seven days after receiving City's request, inspect the Generator's Premises to verify the accuracy of the application. Franchisee must provide documentation of the inspection, including the date of the inspection, Customer name and address, a description of the Premises, evaluation of each criterion of the relevant waiver type, and photographic evidence. The Franchisee must send this information and documentation to the City in a timely manner, not to exceed three days after the date of inspection. City ultimately retains the right to approve or deny any application, regardless of the information provided by the Franchisee. Franchisee must report information regarding waivers reviewed within the month, if any, in accordance with this Section.
3. Service Level Updates. When City grants a waiver to a Customer, or the Customer's waiver status changes after a re-verification determination, City must notify the Franchisee within seven days of the waiver approval or status change with information on the Customer and any changes to Service Level or Collection service

requirements for the Customer. Franchisee has seven days to modify the Customer's Service Level, Customer account data, and billing statement, as needed.

4. Waiver Re-verification. City is responsible for re-verification of waivers. Upon City's request, the Franchisee must support City in this re-verification process by providing requested Customer information. Should a waiver status change, Franchisee must update the Customer's information and Service Level in accordance with this Agreement.

Section 13.02 Contamination Monitoring

A. Annual Route Reviews.

1. Methodology. Franchisee must conduct route reviews that include inspection of the contents of Customers' Collection Containers for prohibited Container contaminants in a manner such that a minimum of 2% of Containers on each and every hauler route are randomly inspected annually to meet the requirements of SB 1383. City representatives may join Franchisee on route reviews upon request. Franchisee must provide the City at least 30 days' notice of scheduled route audits.
2. Contamination Notification. Upon City or Franchisee identification of prohibited Container contaminants in a Customer's Container, Franchisee must provide the Customer with a notice of contamination in the form of either a courtesy pick-up notice or a non-Collection notice as determined by the Administrator.
3. Courtesy Pick-Up Notice. Upon City or Franchisee identification of prohibited Container contaminants in a Customer's Container, Franchisee must provide the Customer a courtesy pick-up notice at the Customers door or gate; or, subject to City's approval, may deliver the notice by mail, e-mail, or text message. The format of the courtesy pick-up notice must be approved by the Administrator and must be a distinct color from the non-Collection notices. Franchisee must also attach or adhere courtesy pick-up notice to Generators contaminated Containers. The courtesy pick-up notification must, at a minimum:

- a. Inform the Customer of the observed presence of Prohibited Container Contaminants;
 - b. Include the date and time the Prohibited Container Contaminants were observed;
 - c. Include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in each Container;
 - d. Inform the Customer of the courtesy pick-up of the contaminated materials on this occasion; and,
 - e. Include photographic evidence.
4. Franchisee must Collect the contaminated Recyclable Materials and/or Organic Materials Containers and either transport the material to the appropriate Approved Facility for processing; or, Franchisee may Collect the contaminated materials with the Solid Waste and transport the contaminated materials to the Designated Disposal Facility. A courtesy Collection of contaminated Recyclable Materials or Organic Materials where the materials are sent to the designated Disposal Facility may be made with a Solid Waste Collection vehicle, provided that the contaminants may safely and lawfully be Collected as Solid Waste.
5. Non-Collection Notices. Upon identification of prohibited Container contaminants in a Container in excess of 10% or more, by volume, or that contain Excluded Waste, Franchisee must provide a non-Collection notice to the Generator. The non-Collection notice must, at a minimum:
- a. Inform the Customer of the reasons(s) for non-Collection;
 - b. Include the date and time the notice was left or issued;
 - c. Describe the Special Pick-up free to Customer for Franchisee to return and Collect the Container after Customer removes the contamination to the extent safe to do so;

- d. Provide a warning statement that a special pick-up fee may be assessed; and,
- e. Document photographic evidence of the violation(s).

Section 13.03 Failure or Refusal to Collect. When Discarded Materials is not Collected from any Discarded Materials service recipient or Customer, Franchisee must contact the Customer on the scheduled Collection day or within 24 hours of the scheduled Collection day by telephone, email, text message, or other verbal or electronic message to explain why the Container was not Collected. Whenever a Container is not Collected because of prohibited Container contaminants, a Customer service representative must contact the Customer to discuss and encourage the Customer to adopt proper Discarded Materials preparation and separation procedures.

Section 13.04 Franchisee Return for Collection. If Customer removes prohibited Container contaminants, Franchisee must Collect Containers that received non-Collection notices on the next regularly scheduled Collection day at no additional charge. If Customer requests Collection before the Customer's next regularly scheduled Collection day, Franchisee may charge Customer the special pick-up fee at the rate as set forth in Exhibit 2. If Customer does not remove prohibited Container contaminants from Containers that received non-Collection notices and requests Collection before the Customer's next regularly scheduled Collection day, Franchisee may charge Customer the special pick-up fee at the rate as set forth in Exhibit 2 to Collect the contaminated Container(s) only if Franchisee notifies Customer of the rate of this service at the time the request is made by the Customer .

Section 13.05 Assessment of Special Pick-up Fees. For Residential Bin Customers, if the Franchisee observes 20% or more, by volume, of prohibited Container contaminants on more than three occasions in a two-month rolling period and issued a courtesy pick-up notice(s) on each of those occasions, the Franchisee may impose additional special pick-up fee(s) approved by Administrator for that Customer's Service Level.

Section 13.06 Universal Enrollment Monitoring. Franchisee must assist the City in ensuring that the Customers that have made service arrangements with the Franchisee must have Solid Waste, Recycling, and Organics Collection services in compliance with SB 1383 unless provided a waiver by the City. City and Franchisee must cooperatively develop and agree to a process no

later than June 1, 2024. Failure to establish Solid Waste, Recycling, and Organics Collection services in compliance with SB 1383 may result in liquidated damages.

Section 13.07 Multi-Family Customer Compliance Reviews. The Franchisee must complete a compliance review of all Multi-Family Customers with five or more units that generate two cubic yards or more per week of Discarded Materials, including Organic Materials to determine their compliance with: (i) Customer requirements under the City's Collection program; and (ii) if applicable for the Customer, Self-Hauling requirements per 14 Cal. Code of Regs. Section 18988.3, including whether a Multi-Family property is complying through Back-Hauling of Source Separated Organic Materials, Source Separated Container Organic Materials, and Organic Materials. The compliance review means a "desk" review of records to determine Customers' compliance with the above requirements and does not necessarily require on-site observation of service; however, Administrator may request that the Franchisee perform an on-site observation of service in addition to or in lieu of the desk review if needed to obtain the required information.

Section 13.08 Hazardous Waste Reporting. Franchisee may inspect Discarded Materials put out for Collection and to reject Discarded Materials observed to be contaminated with Hazardous Waste. Should Franchisee find or observe reportable quantities of Hazardous Waste put out for Collection with Discarded Materials, Franchisee must notify all agencies with jurisdiction, including the California Department of Toxic Substances Control and Local Emergency Response Providers and, if appropriate, the National Response Center, of reportable quantities of Hazardous Waste, found or observed in Discarded Materials observed or Collected anywhere within City's jurisdiction. In addition to other required notifications, if Franchisee observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully Disposed of or released on City property, including storm drains, Streets, or other public rights of way, Franchisee must immediately notify Administrator. City in cooperation with Franchisee will determine the method of Disposal in accordance with applicable including, without limitation, the Act.

Section 13.09 Hazardous Waste Diversion Records. Franchisee must maintain records showing the types and quantities, if any, of Hazardous Waste found in Discarded Materials and which was inadvertently Collected from customers within City, but diverted from landfills.

ARTICLE XIV. CUSTOMER SERVICE

Section 14.01 Franchisee must maintain an office accessible by a local phone number for Customers between the hours of 8:00 a.m. and 5:00 p.m. daily, except Saturdays, Sundays, and Holidays. At Franchisee 's expense, its regular telephone numbers must be listed in Monterey Park area telephone directories under both Franchisee 's name and City's name. In addition, Franchisee employees are to be present in the office and reachable by telephone from 7 a.m. to 7 p.m. on all Collection days for purposes for being reachable by City employees. Franchisee employees must be able to communicate with Customers in English, Spanish, Chinese (Mandarin and Cantonese), Telecommunications Device for the Deaf Service, and other languages necessary for communication with Customers. In the event that there are Customers who are able to communicate only in other languages, City and Franchisee will work cooperatively together to attempt to identify reasonably available third-party resources; however, Franchisee is not obligated to incur any financial obligation to provide services in such other languages.

Section 14.02 Emergency Telephone Number. Franchisee must maintain an emergency telephone number for use outside normal business hours. Franchisee must have a representative, or an answering or call-forwarding service to enable customers to contact such representative, during all hours other than normal office hours. Franchisee must be able to respond to emergency calls in English, Spanish, and Telecommunications Device for the Deaf Service necessary for emergency communication with customers. Franchisee must also provide City with an emergency contact list that need not be published, but will allow City's representatives to contact Franchisee's representatives in an emergency including, without limitation, events such as fallen trees, flooding and vehicle accidents.

Section 14.03 Service Complaints and Requests for Service. City and Franchisee agree that the protection of public health, safety, and well-being require that service complaints be acted on promptly and that a record be maintained in order to permit City and Franchisee to identify potential public health and safety problems. Accordingly, Franchisee must inform all Discarded

Materials Customers that all service recipient complaints be directed to Franchisee. During office hours, Franchisee must maintain a complaint service and a telephone answering system capable of accepting at least five incoming calls at one time. Franchisee must record all complaints, including date, time, complainant's name and address (if the complainant is willing to give this information), and the nature, date, and manner of resolution of complaint, in a computerized daily service complaint log. Any such calls received via Franchisee's answering service must be recorded in the log and responded to within 24 hours. All complaints and requests for service must be responded to within 24 hours or the next business day, whichever is sooner, unless specified otherwise elsewhere in this Agreement. The service complaint log must be available for review by City representatives during Franchisee's office hours and be available for transmission as an attachment to e-mail. Franchisee must also provide a copy of this service complaint log on computer disc to City with the monthly reports. If Franchisee fails due to its own fault to provide services to a Customer on the Customer's regular Collection day, Franchisee will provide service within 24 hours of receiving notice of its failure to provide service.

- A. SB 1383 Non-Compliance Complaints. For complaints received directly by Franchisee in which the person alleges that an entity is in violation of SB 1383 requirements, Franchisee must document the information listed in Exhibit 13. Franchisee must provide this information in a brief complaint report to the City for each SB 1383 non-compliance complaint within seven days of receipt of such complaint, and a monthly summary report of SB 1383 non-compliance complaints in accordance with Exhibit 13. Upon City request, Franchisee must conduct follow-up inspections and/or outreach to the violating entity, and document the information in the reports provided pursuant to Exhibit 13.

Section 14.04 Complaint Documentation. All service complaints must be directed to Franchisee. Daily logs of complaints concerning Collection of Discarded Materials must be retained for a minimum of 24 months and must be available to City at all times upon request.

Section 14.05 Franchisee must log all complaints received by telephone. This log must include the date and time the complaint was received, name, address, and telephone number of caller, description of complaint, employee recording complaint, and the action taken by Franchisee to respond to and remedy complaint. All written customer complaints and inquiries

must be date-stamped when received. All complaints must be initially responded to within one business day of receipt. Franchisee must log action taken by Franchisee to respond to and remedy all complaints.

Section 14.06 All customer service records and logs kept by Franchisee will be available to City upon request and at no cost to City. City must, at any time during regular Franchisee business hours, have access to Franchisee's customer service department for purposes that may include monitoring the quality of customer service or researching customer complaints.

Section 14.07 Resolution of Customer Complaints

- A. Disputes between Franchisee and its customers regarding the services provided under this Agreement may, but is not required to, be resolved by the City Manager, or designee.
- B. Intervention by City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Franchisee. Nothing in this Section is intended to affect the remedies of third parties against Franchisee.

Section 14.08 Government Liaison. Franchisee must designate in writing a "Government Liaison" who is responsible for working with City's designated representatives to resolve customer complaints. City may approve Franchisee's choice of a liaison.

Section 14.09 The parties agree that failure of Franchisee to timely provide the services set forth in this Article constitutes a default. The parties agree that this default will result in damage and injury to City. The parties further agree, however, that actual damages incurred by City as result of such default is difficult if not impossible to ascertain with any degree of certainty or accuracy. Accordingly, the parties have negotiated and have agreed that for each calendar day after written notice is delivered to Franchisee and Franchisee fails to cure such default, that Franchisee will pay City, as and for liquidated damages, and not as a penalty, the sum of \$500.

ARTICLE XV. EMERGENCY SERVICE

Section 15.01 Should Franchisee, for any reason whatsoever, refuse or be unable for a period of more than 72 hours but less than 30 days, to Collect, transport, and Dispose of any or all the Solid Waste, Organic Materials, and/or Recyclables which it is obligated under this Agreement

to Collect, transport, and Dispose of, then in such event City has the right, upon 24 hour prior written notice to Franchisee, during the period of such non-performance/emergency, to temporarily take possession of any or all equipment and facilities of Franchisee previously used in the Collection, transportation, and Disposal of Discarded Materials under this Agreement, and to use such equipment and facilities to Collect and transport any or all Discarded Materials which Franchisee would otherwise be obligated to Collect and transport pursuant to this Agreement. Franchisee agrees that in such event it will fully cooperate with City to effect such a transfer of possession for City's use.

Section 15.02 In such event as covered by Section 15.01, Franchisee must identify sources from which such substitute Discarded Materials services are immediately available and reimburse City for all of its expenses for such substitute services during period in which Franchisee does not provide Collection and transportation services required by this Agreement.

Section 15.03 Franchisee agrees that, in such event as discussed in Section 15.01, City may take temporary possession of and use of said equipment and facilities without paying Franchisee any rental or other charge, provided that City agrees that, in such event, it assumes complete responsibility for the proper and normal use of such equipment and facilities. City agrees that it must immediately relinquish possession of all of the above-mentioned property to Franchisee upon receipt of written notice from Franchisee to the effect that it is able to resume its normal responsibilities under this Agreement.

Section 15.04 Franchisee must assist City in the event of major disaster, such as an earthquake, storm, tidal wave (tsunami), riot or civil disturbance, or acts of terrorism, by providing Collection vehicles and drivers normally assigned to City (to the extent reasonably possible under the circumstances), at Franchisee's actual costs. Disputes with respect to Franchisee's emergency services or the costs of those services must be resolved according to the dispute resolution provisions in this Agreement. Franchisee must cooperate with City, county, state, and federal officials in filing information related to a regional, state, or federally-declared state of emergency or disaster as to which Franchisee has provided equipment and drivers pursuant to this Agreement.

Section 15.05 Fees and Gratuities. Franchisee may not allow any officer, agent, or employee to request, solicit, demand, or accept, either directly or indirectly, any gratuity for Collecting Discarded Materials otherwise required to be Collected under this Agreement.

ARTICLE XVI. OWNERSHIP OF DISCARDED MATERIALS AND RECYCLABLES.

Section 16.01 Ownership and the right to possession of Discarded Materials placed in Containers or bundles for Collection at curbside must transfer directly from the Residents/Customers to Franchisee, by operation of law. Franchisee's arrangements with its Customers must provide that, subject to the right of the Customer to claim lost property, title and the right to possession, and liability for all Discarded Materials, whether or not recyclable, which is set out for Collection on the regularly scheduled Collection day must pass to Franchisee at the time it is set out. Subject to this Agreement, Franchisee may retain any benefit or profit resulting from its right to retain, recycle, compost, Dispose of or use the Discarded Materials which it Collects. Refuse which is Disposed of at a Disposal Site or sites (whether landfill, transfer station, or Materials Recovery Facility) becomes the property of the owner or operator of the Disposal Site or sites once deposited there by Franchisee. At no time does the City obtain any right of ownership or possession of Discarded Materials or any type of Hazardous Waste or waste whatsoever, placed for Collection, and nothing in this Agreement may be construed as giving rise to any inference that City has any such rights.

ARTICLE XVII. RATES AND BILLING

Section 17.01 Rates.

- A. The rates for all Discarded Materials Collection, transportation, Recycling, and Disposal services for Rate Year beginning September 1, 2024 and ending August 31, 2025, may not exceed those set forth in Exhibit 2 to this Agreement and include all costs necessary for Franchisee to accomplish its responsibilities under this Agreement, including without limitation AB 939 and SB 1383 compliance and meeting waste Diversion requirements. Beginning with Rate Year 2 (September 1, 2025) and for all subsequent Rate Years, Franchisee must submit its request and annual rate adjustment calculation (increase or decrease) to the maximum rates in writing, to be received by City in person or via certified mail, by April 30 of the same year based on the method of adjustment described

in Section 17.01. Failure to submit a written request by April 30 results in Franchisee waiving the right to request such an increase for the subsequent year. If approved by City, future adjustments will be effective on September 1 of any Rate Year, beginning September 1, 2025.

- B. The maximum rates are based upon the average annual percentage change in the published CPI, for all urban consumers in the Los Angeles-Long-Beach-Anaheim region (CUURS49ASA0), as published by the United States Department of Labor, Bureau of Labor Statistics, between the calendar year ended the December before the Rate Year adjustment date, and the calendar year ended the prior December. An example calculation is included in Exhibit 2. If the index is discontinued, an alternative index must be approved by the City Council. If there is no increase in the CPI or if the CPI decreases, the Rates remain unchanged from the previous Rate Year. In the event that the rate adjustment formula results in a decline and a rate decrease is not implemented, the subsequent rate adjustment is based upon the average changes in indices since the previous rate adjustment instead of the average change over the prior year.

Section 17.02 Billing and Payment.

- A. Billing by Franchisee. Franchisee is responsible for billing Customers for the services provided by this Franchise. Bills to Residential Unit Customers must be itemized, showing charges for all classifications of service. Billings must be mailed out by the Franchisee bi-monthly (every two months), in advance for all Residential Unit Customers and monthly in arrears for extra services. The utility billings includes any applicable fees approved by the City Council including, without limitation, AB 939 Fees and Franchise Fees. All payments for utility billings must be collected by the Franchisee. Franchisee must provide Customers the opportunity to pay their bills in person, via U.S. mail, or with a secure electronic bill payment service. Customer bills must provide that bills are payable upon receipt, with a payment due date not later than 20 days after receipt, and that bills paid that are not paid by the due date may subject the Customer to late fees and service suspension.

- B. Payment by Franchisee to City. The Franchisee must pay to the City on a monthly basis, the Franchise Fees (“Franchise Fee”), AB 939 Fees, and other City fees to be set by the City. City should notify the Franchisee no later than August 1, 2024 regarding the amount of these various fees. Monthly payments must be made to City within 30 days of the end of each billing collection period described above. Additionally, Franchisee must pay to City the AB 939 Fees and Franchisee Fees from all revenues received for its Temporary Collection for Bin Service described in Section 9.21 within 30 days of Franchisee’s collection of such fees.

- C. Billing for Temporary Bin Service. Franchisee is responsible for billing Customers to which it has provided temporary Bin service. Billing is in arrears. The charge to Customers for temporary Bin service may be no greater than the maximum rate specified in Exhibit 2 of this Agreement. Franchise Fees or other fees imposed on charges for temporary Bin service by City may not be itemized or listed on Customer bills.

Section 17.03 Late Fees. In the event Franchisee fails to timely make any of the payments provided for in this Agreement (whether reimbursements, Franchise Fees, AB 939 Fees, payments of funds collected in connection with billing services, or otherwise), Franchisee must pay to City, as additional consideration, a sum of money equal to 2% of the amount past due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, without limitation, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue. In addition, any amounts not paid to City by Franchisee within 60 days of the due date is subject to interest in the amount of 10% per annum, calculated on a daily basis for each day such sum remain past due.

Section 17.04 Delinquent Accounts. Franchisee may discontinue service as set forth in this Section. Customers who have not remitted required payments within 45 days after the date of billing must be notified in writing by City. The notification will contain a statement that services may be discontinued 15 days from the date of notice if payment is not made before that time. City must notify Franchisee when such 15 days has expired and direct the Franchisee to terminate service. Upon City’s receipt of the delinquent payment, Franchisee must resume

Collection on the next regularly scheduled Collection day. Franchisee may assess a reinstatement fee of \$15.00 for any service recipient whose service is temporarily disconnected for non-payment.

Section 17.05 Refunds. Franchisee must refund to City, on a pro rata basis, any advance service payments made by City for service not yet provided when service is discontinued by the City.

ARTICLE XVIII. FUTURE ADJUSTMENTS

Section 18.01 Franchisee must submit any and all data requested in the format prescribed by the City Manager, or designee. The City Manager, or designee, may review the information submitted by Franchisee and, in the City Manager's reasonable judgment, make the final determination on the appropriate amount of the adjustment, if any. A requested adjustment cannot be denied in the case of changed or additional services requested by City, additional reporting required by City, City's designation of a Disposal Site or processing facility, any change in the MPMC affecting Franchisee's operations, or changes in state or local government Discarded Materials fees and charges. Any such rate adjustment approved by the City Manager becomes effective on September 1. An adverse decision by the City Manager may be appealed to the City Council.

ARTICLE XIX. FRANCHISEE'S BOOKS AND RECORDS; AUDITS

Section 19.01 Franchisee must maintain all records relating to the services provided hereunder including, without limitation, Customer lists, maps, Disposal and Collection records, and Customer complaints, for the full Term of this Agreement, and an additional period of not less than three years, or any longer period required by Applicable Law. City may, upon five business days advance notice, inspect all records relating to this Agreement including, without limitation, billing records, Customer lists, maps, Disposal and Collection records, and Customer complaints. Such records must be made available to City at Franchisee's regular place of business, but in no event outside the County of Los Angeles.

Section 19.02 Biennial Audit. Upon City's request, an audit of Franchisee may be performed. The scope of the audit, and auditing party, will be determined by City and the scope may include, without limitation:

- A. Compliance with terms of this Agreement;
- B. Customer Service Levels and billing;
- C. Fee payments;
- D. Receipts;
- E. Tonnage;
- F. Complaint log;
- G. Compliance with Mandatory Commercial Recycling, Mandatory Commercial Organics Recycling, and SC 13831; and
- H. Verification of Diversion rate.

The first audit, to be performed during 2026, will be based on the Franchisee's reports and records for the period from commencement of the Agreement through August 31, 2025. Audits will be performed every two years thereafter (the biennial audit). Franchisee will reimburse to City the cost of such audits up to \$70,000 for the first audit. The \$70,000 amount in subsequent years will be adjusted annually by 2.5% per year. For example, the audit to be performed in 2028 will be reimbursed at: $\$70,000 \times 1.025 \times 1.025 = \$73,544.00$.

Should an audit by City disclose that Franchise or other fees payable by the Franchisee were underpaid by 3% or more, or that more than 2% of the Customers were inaccurately billed, for the period under review, Franchisee must reimburse City for the actual cost of the audit to the extent it exceeded the reimbursement amount calculated above.

ARTICLE XX. THE ACT; REPORTING REQUIREMENTS

Section 20.01 During the period during which Collection services are provided pursuant to this Agreement, Franchisee at Franchisee's sole expense, must submit to City information and reports necessary for City to meet its reporting obligations imposed by (and the regulations implementing) AB 939, AB 341, AB 1826, and SB 1383. In addition to submitting all reports on paper, Franchisee agrees to submit all reports and information in an electronic format approved

by City and compatible with City's software/computers at no additional charge. Monthly and annual reports must include at a minimum, all data and information described in Exhibit 13, unless otherwise specified under this Agreement.

Section 20.02 Upon request of either of the parties but not more than two times per year, City and Franchisee should meet and confer about the current reporting requirements and templates utilized for the prior calendar year to discuss updates or modifications to the formatting or additional information as required by Applicable Law.

Section 20.03 A copy of each of Franchisee's annual and other periodic public financial reports and those of its parent, subsidiary and affiliated corporation, and other entities, as City requests, must be submitted to City within five days after receipt of City's request.

Section 20.04 Pleadings and Complaints. Franchisee must submit to City copies of all pleadings, applications, notifications, communications, and documents of any kind, submitted by Franchisee to, as well as copies of all decisions, correspondence, and actions by, any federal, state, and local courts, regulatory agencies, and other government bodies relating specifically to Franchisee's performance of services pursuant to this Agreement. Any data which Franchisee seeks to be excluded from provisions of the California Public Records Act must be clearly identified as such by Franchisee with the basis for such claim of exclusion clearly specified. In the event City receives a request under the Public Records Act, or by subpoena, the City will notify Franchisee to allow Franchisee to intervene in the disclosure of such materials.

Section 20.05 Agency Information. Franchisee must provide City two copies (one to the City Manager, one to the City Attorney) of all reports, or other material adversely reflecting on Franchisee performance under this Agreement, submitted by Franchisee to, or received by Franchisee from, the United States or California Environmental Protection Agency, the California Department of Resources Recycling and Recovery (CalRecycle), the Securities and Exchange Commission, or any other federal, state, or county agency. Copies must be submitted to City simultaneously with Franchisee submittal or receipts of such documents, or within three business days of Franchisee's receipt of or submittal of such matters with or from said agencies. Franchisee's routine correspondence with said agencies need not be automatically submitted to City but must be made available to City upon written request. Franchisee agrees to submit such

reports and information by email or on computer discs, in a format acceptable to City at no additional charge, if requested by City.

Section 20.06 Other Information and Reports. Franchisee at no additional expense to City, must submit to the City such other information or reports in such forms and at such times as the City may reasonably request or require including, without limitation, the following:

A. Submittal of Reports. Reports must be submitted to:

City Manager
City of Monterey Park
320 West Newmark Avenue
Monterey Park, CA 91754

B. Monitoring. Franchisee must provide City or its representatives and auditors with access to Franchisee's billing records and Customer lists and files and will make available to City or its billing agents, a computerized data base accessible to City at all times via the internet, of a complete file of Customers, addresses, property owners, and account classifications. Franchisee will also have to receive and process file transfers or corrections from City or its billing agent.

C. Franchisee-City Cooperation. Franchisee must cooperate with City in Discarded Materials Disposal characterization studies and waste stream audits and must implement measures adequate to achieve City's source reduction, Recycling, and waste stream Diversion goals for the Discarded Materials streams covered by this Agreement.

1. City may request additional information not specified above on an as needed basis, to review records at Franchisee's facility on demand and to conduct audits.
2. Franchisee will allow a City Representative to ride with either the Recycling or refuse vehicles on any route or routes. City will inform Franchisee at least one Working Day before date(s) of such route monitoring.

- D. Accounting Records. Franchisee must locally maintain current, accurate and complete financial records on the accrual basis of accounting relating to Agreement operations, including original ledgers, journals, accounts, and records in which are recorded entries reflecting its activities hereunder, as well as supporting documents such as bank statements, cancelled checks, bank account reconciliations, tax returns, contracts, employee files, time records, invoices, and receipts. All accounts must be maintained in accordance with Generally Accepted Accounting Principles.
- E. Access to Records. Notwithstanding anything to the contrary herein, City may, at Franchisee's cost and expense (including compensation paid to City employees or City consultants) during normal business hours, and upon reasonable notice, inspect all financial records pertaining to any City contract related account and any other records of Franchisee reasonably and directly necessary for City administration of its right of review, approval, or enforcement by this Agreement.
- F. Inspection and Audit Rights. In addition to the foregoing, City may, for a period of three years following the delivery of an auditor's report and financial statements, at Franchisee's cost and expense (but excluding compensation paid to City employees or City consultants), during normal business hours and upon reasonable notice, inspect for the purpose of audit all financial and other records of Franchisee concerning its operation pursuant to this Agreement.

Section 20.07 Costs. All reports and records required to be submitted by Franchisee to City under this Agreement must be furnished at no expense to City or Customers.

Section 20.08 Failure to Report. The willful refusal or failure of Franchisee to file any of the reports required, or to provide required information to City, or the inclusion of any false or misleading statement or representation by Franchisee in such report is deemed a material breach of this Agreement, and subjects Franchisee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

Section 20.09 Exhibit 10 sets forth, unless otherwise set forth in this Agreement, dates by which information is to be submitted to City.

Section 20.10 Changes in the Act, RCRA, CERCLA and Related Laws. This Agreement is part of City's efforts to comply with the provisions of the Act and City's source reduction and Recycling component. Should the Act or other state or federal laws or regulations enacted or amended after this Agreement is executed, prevent or preclude compliance with one or more provisions of this Agreement, or significantly increase Franchisee's costs, such provisions of this Agreement will be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Should an amendment to the laws have the effect of eliminating or reducing the need for a service provided for in this Agreement and City informs Franchisee that City seeks to discontinue the service, City and Franchisee will negotiate a reduction in rates.

Changes in Other Laws. In the case of changes in Environmental Laws, which increase the cost of Franchisee's service, Franchisee may seek a rate increase to offset the costs directly attributable to the amended or newly enacted provision of law or regulations, specifying, in writing, the law to which the additional costs are attributed, and how they would result in increased costs.

ARTICLE XXI. ACTIVITIES AND FINANCIAL REPORTS; ADVERSE INFORMATION

Section 21.01 Reports. Franchisee, at no additional expense, must submit to City such information or reports in such forms and at such times as City reasonably may request or require, including, without limitation the reports set forth below beginning with the month of xx.

Section 21.02 Monthly Reports. Monthly reports must be submitted to City, transmitted in a format acceptable to City, as an attachment to e-mail or by disc, at City's option. Monthly reports must be submitted not later than 30 days after the month ends and include, without limitation the following:

- A. Discarded Materials Tonnage and Complaints. The monthly report must show the number of tons Collected each month and the tonnage delivered to Disposal Facilities, itemized by Disposal Facility. A copy of the customer complaint log must be submitted with the monthly report.
- B. Recyclable Materials. The monthly report must include information regarding Recyclable Materials including:

1. A statement showing, by type of material, tons received during the month and tons marketed during each month.
 2. A report providing Recycling information.
 3. A narrative description of problems encountered and actions taken, including efforts to deter and prevent Scavenging. This is to include a description of tons rejected for sale after processing (type of material, tonnage), reason for rejection, and Franchisee's Disposal method for the rejected materials.
 4. A report of Recycling program promotional activities, including materials distributed by Franchisee to its customers.
- C. Hazardous Waste Diversion Reports. The monthly report must include a copy or summary of the records as required herein for Hazardous Waste Diversion.

Section 21.03 Annual Report. By March 1, beginning in xxx and each year thereafter that Collection services are provided pursuant to this Agreement, Franchisee must submit to City a written year-end annual report in a form approved by City. The annual report must include, without limitation, the following information for the year ending on the preceding December 31st:

- A. General Information. General information about Franchisee, including a list of Franchisee's officers and members of its board of directors. A copy of Franchisee's most recent annual and other periodic financial reports and those of each of its subsidiaries and affiliated corporations and other entities if any, performing services under this Agreement, which are required to be publicly filed under Applicable Law, as City, following consultation with Franchisee, may request.
- B. Prior Year's Activities. A cumulative summary of the monthly reports and information and statistics with respect to City's compliance with the Act.
- C. Recommendations. Changes in integrated waste management, including projections and proposed implementation dates and costs, recommended by Franchisee and recommended amendments to City's source reduction and Recycling component or this

Agreement, based on developments in Applicable Law or technology. Franchisee's recommendations with respect to compliance with the Act must state the specific requirement of the Act that the implementation of the recommendation is intended to satisfy.

Section 21.04 Certification. All reports must include a certification statement, under penalty of perjury, by the responsible corporate official, that the report is true and correct.

Section 21.05 Reporting Additional Matters. Franchisee must provide City two copies (one to City Manager, one to City Attorney) of all written reports, pleadings, applications, written notifications, notices of violation, communications, or other material relating specifically to Franchisee's performance of services pursuant to this Agreement, submitted by Franchisee to, or received by Franchisee from, the United States or California Environmental Protection Agency, the California Integrated Waste Management Board, the Securities and Exchange Commission, or any other federal, state, or county agency, including any federal or state court. Copies must be submitted to City simultaneously with Franchisee's filing or submission of such matters with said agencies. Franchisee's routine correspondence to said agencies need not be routinely submitted to City but must be made available to City upon written request.

Section 21.06 Failure to Report. The refusal or failure of Franchisee to file any required reports; to provide required information to City; or the inclusion of any materially false or misleading statement or representation by Franchisee in such report is a material breach of this Agreement and subjects Franchisee to all remedies which are available to the City under this Agreement.

Section 21.07 City's Review of Franchisee's Performance. Annually, within 90 days of City's receipt of the Annual Report, City will review the annual report and other available information and may, but is not required to, hold a public hearing to determine whether Franchisee's performance for the year reported on was satisfactory and whether to implement changes, if any, recommended by Franchisee. Factors to be considered in the hearing include, without limitation, quality of services provided, service recipient complaints, rights of privacy, Franchisee's adherence to developments in the law, Franchisee's performance in meeting or exceeding City's goals and reporting requirements under the Act and costs. The reports required

by this Agreement will be utilized as the primary basis for review. In addition, any service recipient comments or complaints and any other relevant information may be considered. Franchisee must be present and must participate at any public hearing held by City to review Franchisee's performance. If any non-compliance with the Agreement is found, City will offer Franchisee the opportunity to comment and offer information in rebuttal, and to correct any deficiencies. City may direct Franchisee to correct any inadequacies and City may pursue all other legal and equitable remedies.

Section 21.08 Costs. All reports and records required under this Agreement must be furnished at Franchisee's sole expense.

Section 21.09 City's Right to Request Information. City believes and Franchisee agrees that cooperation between City and Franchisee is critical to the success of this program. City may request, and Franchisee agrees to provide, additional information reasonably and directly pertaining to this Agreement on an "as-needed" basis.

Section 21.10 CERCLA Defense Records. City views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where its Discarded Materials were taken, as well as where it was not taken, to be matters of concern. Franchisee must maintain data retention and preservation systems, which can establish where Discarded Materials Collected in the City was landfilled (and therefore establish where it was not landfilled) and a copy or summary of the reports required, for 50 years after the Term during which Collection services are to be provided pursuant to this Agreement and to notify City's Risk Manager and City Attorney before destroying such records. This provision will survive the expiration of the period during which Collection services are to be provided under this Agreement.

Section 21.11 Collection Route Ride-Along. Franchisee will allow a City Representative to ride with Recycling and Solid Waste Collection vehicles on any route or routes. The City will inform Franchisee at least one Working Day before date(s) of ride-alongs.

ARTICLE XXII. SECURITY

Section 22.01 Contemporaneously with the execution of this Agreement, as security for Franchisee's faithful performance of all obligations of this Agreement, Franchisee must provide a surety mechanism ("Surety") as more fully defined below in the sum of \$700,000. The Surety may be comprised entirely in an irrevocable letter of credit or split 50% between a performance bond and an irrevocable letter of credit. Any letter of credit utilized to satisfy some or all of the Surety requirements must be drawn upon a financial institution with an office within 100 miles of City, and otherwise in a form approved by the City Attorney. The performance bond, if any, must be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to City Attorney. The cost of the Surety is the sole responsibility of Franchisee. The Surety will be released within 30 days after both (i) the expiration of the Term of this Agreement; and (ii) Franchisee's satisfactory performance of all obligations hereunder.

Section 22.02 Surety bond to include letter of credit. The term "surety bond" also includes such other acceptable security, such as letters of credit or cash deposit agreements issued by responsible financial institutions which are approved by City Attorney. The term "surety" includes the issuer of any letter of credit or cash deposit agreement which is acceptable to City as security for the performance of this Agreement. Sureties must be admitted to do business in California.

Section 22.03 Should Franchisee fail to pay City an amount owing under this Agreement, the Surety may be assessed by City, for any purpose including, without limitation:

- A. Failure of Franchisee to pay City sums due under the terms of the Agreement;
- B. Reimbursement of costs borne by City to correct Agreement violations not corrected by Franchisee, after due notice;
- C. Monetary remedies or damages assessed against Franchisee due to breach of this Agreement; or
- D. To satisfy an order of the referee.

Section 22.04 Franchisee must deposit a sum of money or a replacement instrument sufficient to restore the security to the original amount within 30 days after notice from City that any amount has been withdrawn from the security. The amount of the Surety will be annually adjusted based upon the average annual percentage change in the published CPI, for all urban consumers in the Los Angeles-Long-Beach-Anaheim region (CUURS49ASA0), as published by the United States Department of Labor, Bureau of Labor Statistics, between the calendar year ended the December before the Rate Year adjustment date, and the calendar year ended the prior December.

Section 22.05 All of City's costs of collection and enforcement of the provisions relating to the Security, including attorneys' fees and costs, must be paid by Franchisee.

ARTICLE XXIII. IMPOSITION OF DAMAGES; TERMINATION

Section 23.01 If the City Manager, or designee, determines that Franchisee's performance pursuant to this Agreement may not be in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the Act, including, without limitation, requirements for Diversion, source reduction, and Recycling (as to the waste stream subject to this Agreement) or any other applicable federal, state, or local law or regulation, including without limitation, the laws governing transfer, storage, or Disposal of Hazardous Waste, the Administrator may advise Franchisee in writing of such suspected deficiencies. The Administrator may, in such written instrument, set a reasonable time within which Franchisee is to respond and, if Franchisee agrees with the report of suspected deficiencies to correct the deficiencies. Unless otherwise specified, a reasonable time for response and correction of deficiencies is 30 days from the receipt by Franchisee of such written notice. The Administrator will review Franchisee's response and seek to resolve the matter or notify Franchisee of the Administrator's decision in writing. A decision or order of the Administrator is final and binding on Franchisee if Franchisee fails to file a "Notice of Appeal" with the City Clerk within 30 days of receipt of the decision or order of the Administrator.

Section 23.02 If a matter is appealed to the City Council, the City Clerk will set the matter for hearing. The City Clerk will give Franchisee at least 14 days written notice of the time and place of the hearing. At the hearing, the City Council will consider the report of the

Administrator indicating the deficiencies, and give Franchisee, or its representatives and any other interested person, a reasonable opportunity to be heard.

Section 23.03 Based on the evidence presented at the hearing and the report of the Administrator, the City Council will determine by written resolution whether the decision or order of the Administrator should be upheld. If, based upon the record, the City Council determines that the performance of Franchisee is in breach of any material term of this Agreement or any material provision of any applicable federal, state, or local statute or regulation, the City Council in its sole discretion, may order Franchisee to take remedial actions to cure the breach, terminate forthwith the Agreement, or impose liquidated damages, as defined below. The decision of the City Council is final and conclusive. Franchisee's performance under the Agreement is not excused during the period of time before the City Council's final determination as to whether such performance is deficient. Franchisee may appeal the City Council's final decision within 90 days to a court of competent jurisdiction in accordance with Code of Civil Procedure § 1094.6. City is not required to provide Franchisee with any additional notice regarding its appeal rights other than as set forth in this Agreement.

Section 23.04 This right of termination or to impose liquidated damages is in addition to any other rights of City upon a failure of Franchisee to perform its obligations under this Agreement. Liquidated damages may be enforced to maximum extent provided by law, to the extent there is any inconsistency between the liquidated damages provisions in this Agreement and other provisions in this Agreement, the other provisions in this Agreement control.

Section 23.05 City may also terminate the Agreement or impose liquidated damages in the event of any of the following:

- A. If Franchisee practices, or attempts to practice, any fraud or deceit upon the City, or practiced any fraud or deceit or made any misrepresentations in the negotiations which preceded the execution of this Agreement;
- B. If Franchisee has been found guilty of felonious conduct, illegal transport or Disposal of Hazardous Materials, or bribery of public officials;

- C. If Franchisee becomes insolvent, unable or unwilling to pay its debts, upon appointment of a receiver to take possession of all or substantially all of the assets of Franchisee, or upon a general assignment by Franchisee for the benefit of creditors, or upon listing of an order for relief in favor of Franchisee in a bankruptcy proceeding;
- D. If Franchisee fails to provide or maintain in full force and effect the workers' compensation, liability and indemnification coverages, or cash bond as required by the Agreement;
- E. If Franchisee willfully violates any orders or rulings of any regulatory body having jurisdiction over Franchisee relative to this Agreement, provided that Franchisee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the Agreement shall be deemed to have occurred until a final decision adverse to Franchisee is entered;
- F. If Franchisee ceases to provide Collection service as required under this Agreement over all or a substantial portion of its Franchise Area for a period of 30 days or more, for any reason within the control of Franchisee; or
- G. If Franchisee willfully fails to make any payments required under the Agreement and/or refuses to provide City with required information, reports, and/or test results in a timely manner as provided in the Agreement.

Section 23.06 Any other act or omission by Franchisee which materially violates the terms, conditions, or requirements of the Agreement and which is not corrected or remedied within the time set in the written notice of the violation or, if Franchisee cannot reasonably correct or remedy the breach within the time set forth in such notice, if Franchisee should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

Section 23.07 Liquidated Damages.

- A. The City finds, and Franchisee agrees, that as of the time of the execution of this Agreement it is impractical to reasonably ascertain the extent of damages which will be

incurred by the City because of a material breach by Franchisee of its obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, without limitation, (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that services might be available at substantially lower costs than alternative services, and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

- B. Accordingly, the Administrator may, in the Administrator's discretion, assess liquidated damages for each calendar day that service is not provided by Franchisee in accordance with this Agreement in the amounts identified in Exhibit 5. In addition, the City Council may order the assessment against the Surety required above, termination of the Agreement, or both.
- C. City finds, and Franchisee acknowledges and agrees that the above-described liquidated damages provisions represent a reasonable sum in light of all of the circumstances. Said liquidated damages sums are applicable to each calendar day of delay during which Franchisee is found by the Administrator to be in breach of this Agreement. Franchisee must pay any liquidated damages assessed by the City Council within 10 business days after they are assessed. If they are not paid within the 10 Working Day period, City may withdraw them from the surety and, in addition to any other remedies, terminate this Agreement.

City *TW*

Franchisee

(INITIAL)
JHW

ARTICLE XXIV. CITY'S ADDITIONAL REMEDIES

Section 24.01 In addition to any other legal remedies, City has these additional remedies in the event of a material default by Franchisee which is not cured after reasonable written notice:

- A. In the event the Franchisee fails to provide the services required to be performed hereunder for 30 days or more, City may, at no charge to City, use equipment from Franchisee for the purpose of collecting, transporting, and Disposing of Discarded Materials which Franchisee is obligated to Collect, transport, and Dispose of pursuant to this Agreement, for a period not to exceed nine months. In the case of equipment not owned by Franchisee, Franchisee must assign to City, to the extent Franchisee is permitted to do so under the instruments pursuant to which Franchisee possesses such equipment, the right to possess the equipment. Consistent with this provision, Franchisee agrees to use its best efforts to obtain in the instruments pursuant to which Franchisee possesses such equipment, provisions which authorize City to possess such equipment pursuant to this provision. If City exercises its rights under this Section, City will pay to Franchisee the reasonable rental value of the rental equipment so taken for the period of City's possession thereof;
- B. The right to license others to perform the services otherwise to be performed by Franchisee, or to perform such services, including using the equipment under either event;
- C. The right to obtain damages and/or injunctive relief. Both parties recognize and agree that in the event of a breach under the terms of this Agreement by Franchisee, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Agreement and to enjoin the breach thereof.
- D. To require that Franchisee continue to provide the services set forth in this Agreement for the lessor of nine months or the time it reasonably takes for City to replace the Franchisee.

Section 24.02 City's Damages for Failure to Achieve Diversion Goals. Franchisee agrees that its failure to achieve a compliance with the Act, as set forth in this Agreement for the waste stream Collected under this Agreement, arising from failure to maximize Diversion in accordance with the terms and conditions of this Agreement would constitute a material breach of this Agreement. If CalRecycle were to impose administrative civil penalties against City, then City's damages for Franchisee's material breach in its failure to achieve the Diversion goals for City within its Franchise Area as required by this Agreement, would include, without limitation, such administrative civil penalties, attorneys' costs and fees, and City's staff time devoted to the resolution of the administrative civil penalties against City. Franchisee acknowledges that the matters addressed in this Section are damages which would result in the event of a material breach by Franchisee, and not an indemnification, and therefore are not governed by Public Resources Code § 40059.1. Should City terminate this Agreement for Franchisee's failure to achieve Diversion goals, City's damages would include City's unreimbursed attorneys' fees and costs, advertising, and other expenses in the procurement of a replacement Discarded Materials enterprise to provide the services called for in this Agreement. In addition, City's damages would include any increase in rates to be charged by the replacement Discarded Materials enterprise, for the unexpired Term of the Agreement.

Section 24.03 Notwithstanding any other provision in this Agreement to the contrary, City may terminate this Agreement if any official of Franchisee, or any associated firm or entity including, without limitation, any parent or subsidiary Franchisee involved with the performance or administration of the Agreement is convicted of, or pleads guilty or nolo contendere to a felony relating to this Agreement or any other agreement for the provision of Discarded Materials services within the jurisdiction of another public entity.

ARTICLE XXV. FRANCHISE TRANSFER; CITY CONSENT; FEES

Section 25.01 Any attempt to transfer, sell, hypothecate, sublet, or assign this Franchise (collectively, a "Transfer") is prohibited. Any such purported action is void ab initio. Franchisee may request that the City Council approve such action. City's approval, which will not be unreasonably withheld, must be reflected in a written resolution adopted by the City Council to the extent such is permitted under the MPMC. For purposes of this Agreement, any dissolution, merger, consolidation, or other reorganization of Franchisee; any sale or other transfer or change

in ownership or control of any of the capital stock or other capital or equity interests; or any sale or transfer of 25% or more of the voting stock or ownership interest of Franchisee constitutes a transfer. A change in corporate name only is not a transfer of the Franchise.

Section 25.02 If Franchisee attempts to transfer the Franchise before obtaining City consent, all of the profits or 25% of the Gross Revenues, from the date of attempted transfer until the date of City consent, whichever is greater, must be refunded to the Customers, on a pro rata basis.

Section 25.03 City's decision as whether to consent or not may be based upon the financial strength of the proposed transferee (being at least as strong as the Franchisee's), the history of the transferee in providing services to Residential Customers of the size and type found in the City, proof that the transferee conducts its services in accordance with sound waste management practices in compliance with all Applicable Laws, transferee providing City with copies of all litigation, fines, and censures and the City determining that such were resolved in an acceptable manner, that neither transferee, nor its officers or managers, has had any relevant criminal convictions, including environmental or public integrity offenses, and any other information required by City for determining the transferee has the ability to perform the services required under this Agreement. If City gives its consent, it may impose conditions, including, without limitation, requiring acceptance of amendments to this Agreement. City may impose reasonable conditions of approval on a transfer, including, without limitation conditions requiring the payment of a transfer fee to the City.

Section 25.04 The prospective transferee has the burden of demonstrating that it has the financial and technical ability to provide the services required under this Agreement.

Section 25.05 Franchisee's internal reorganization does not constitute a transfer provided that City consent to the reorganization is sought and received before any internal reorganization. An internal reorganization includes any change in control of any of the voting stock through its conveyance to an affiliate of Franchisee, or by operation of law. Any request for an internal reorganization must be submitted in writing to the City Manager, not less than 120 days before the proposed effective date of the internal reorganization. Franchisee must reimburse City for all of its costs to review the request and to determine if it is an internal reorganization. City expenses may include, without limitation, staff, legal (including the City Attorney), and

accountant fees and costs. Determination by the City Manager is the City's final decision. Any attempt to implement an internal reorganization without City's consent constitutes a material breach of this Agreement. A reorganization resulting from a transfer or transfers to family members, family trusts, family partnerships, or other entities primarily for estate planning purposes which does not result in a change in beneficial ownership outside of the family of the shareholders of Franchisee, does not constitute a reorganization requiring consent of City.

Section 25.06 Franchise Transfer.

- A. Any application for a Franchise transfer must be made in a manner prescribed by the Administrator. Franchisee must pay a transfer fee to City equal to 1% of the annual revenue for the most recent 12 months before the Effective Date of the proposed change of ownership, multiplied by the number of remaining years, or fraction thereof.
- B. The application must include a deposit of \$50,000, to cover the estimated cost of all direct and indirect expenses, including City staff, consultants', and legal costs (including attorney's fees), incurred by City to adequately analyze the application and the qualifications of the prospective transferee. Any costs incurred by City exceeding \$50,000 must be reimbursed by Franchisee before it submits a proposed transfer to the City Council. Should City's costs be less than \$50,000, City must refund remaining deposit to Franchisee with 30 days after a transfer is considered. These Franchise transfer fees are over and above any Administrative Fees specified in this Agreement.

ARTICLE XXVI. ANNUAL REVIEW OF PERFORMANCE AND QUALITY OF SERVICE.

Section 26.01 At City's sole option, within 90 days of the first anniversary of the Effective Date of this Agreement, and each year thereafter throughout the Term of this Agreement, City may hold a public hearing at which Franchisee's representatives must be present and participate, to review Franchisee's performance and quality of service. The reports required by this Agreement regarding Diversion rates and Customer complaints may be utilized as the basis for review. At City's sole option, City may include a Customer service survey as part of the performance review. In addition, any Customer may submit comments or complaints during the review meetings, either orally or in writing.

Section 26.02 Within 30 days after the conclusion of the public hearing, City should issue a report with respect to the adequacy of performance and quality of service. If any non-compliance with the Agreement is found, City may direct Franchisee to correct the inadequacies in accordance with this Agreement.

ARTICLE XXVII. SYSTEM AND SERVICES REVIEW.

Section 27.01 To provide for technological, economic, and regulatory changes in refuse Collection and Recycling, to promote competition in the refuse and Recycling industry and to achieve a continuing, advanced refuse Collection and Recycling system, the following system and services review procedures are established:

Section 27.02 At City's sole option, City may hold a public hearing on or about the first anniversary date of the Agreement at which it reviews Collection and Recycling systems and services. Subsequent system and services review hearings may be scheduled by City each year thereafter. It is City's intent to conduct any system and services review concurrently with any annual review of performance and quality of service.

Section 27.03 Sixty days after receiving notice from City, Franchisee must submit a report to City showing the following:

- A. All refuse Collection, Organic Materials and Recycling services reported in refuse Collection, and Recycling industry trade journals that are being commonly provided on an operational basis, excluding tests and demonstrations, to communities in the United States with comparable populations, that are not provided by Franchisee to City;
- B. Changes recommended to improve the City's Diversion rate;
- C. Any specific plans for provision of such new services by Franchisee, or a justification indicating why Franchisee believes that such services are not feasible for the Franchise Area;
- D. Topics for discussion and review at the system and services review hearing must include, without limitation, services provided, Customer complaints, rights of privacy,

amendments to the Agreement, developments in the law, and new initiatives for meeting or exceeding the Act's goals and regulatory constraints;

- E. City and Franchisee may each select additional topics for discussion at any system and services review hearing; and
- F. Not later than 60 days after the conclusion of each system and services review hearing, Franchisee must issue a report that identifies services not being provided to City that are considered technically and economically feasible by City. City may require Franchisee to provide such services within a reasonable time.

ARTICLE XXVIII. LIMITATIONS OF SCOPE

Section 28.01 Prohibitions. Franchisee is prohibited from commingling waste Collected from within City's limits with other wastes such as that from the unincorporated area or other cities. However, nothing prohibits commingling of residual waste after Diversion of Recyclable Materials, unless such commingling violates rules or regulations of landfills to which Franchisee transports such residual waste.

Section 28.02 Awarding this Agreement does not preclude the categories of Discarded Materials or other materials listed below from being delivered to and Collected and transported by other persons, provided that nothing in this Agreement is intended to or may be construed to excuse any person from obtaining any authorization from the City which is otherwise required by law:

Section 28.03 This Franchise Agreement does not include state run school systems, lawfully operated Self-Haulers, Commercial Premises, civic waste, or others exempt from the Franchise as permitted by law.

Section 28.04 Recyclable and Organic Materials. Other persons maintain the right to: (i) accept Source Separated Recyclable Materials and Source Separated Organic Materials donated from the service recipient, or (ii) sell, in a commercial transaction, for Source Separated Recyclable Materials and Source Separated Organic Materials provided that there is no net payment made by the service recipient to a third person in the form of discounted service fees, rebates or otherwise.

Section 28.05 Self-Hauled Materials. A Resident may transport Recyclable Materials, and Organic Materials for processing, generated in or on their own Premises with their own vehicle(s), equipment, and/or employees. Self-Hauler must deliver any Recyclable Materials or Organic Materials to a permitted facility and have proof of transactions, such as weight tickets, to document any Self-Haul transaction in accordance with the MPMC.

Section 28.06 Construction and Demolition Debris (C&D). Construction and Demolition Debris which is removed by a duly-licensed construction or demolition company or as part of a total construction and demolition service offered by said licensed company or by City, where the licensed company utilizes its own equipment.

Section 28.07 Donated or Sold Materials. Any items which are Source Separated at any Premises by the Generator and sold or donated to youth, civic, or charitable organizations. Materials will not be deemed donated if they are Collected by a non-franchised waste hauler that is not an IRC § 501(c)(3) organization.

Section 28.08 Food Scraps. Food scraps that are separated by the Generator and used by the Generator or distributed to other person(s) for lawful use as animal feed, in accordance with 14 Cal. Code Regs. §18983.1(b)(7). Food scraps intended for animal feed may be Self-Hauled by Generator or hauled by another party.

Section 28.09 Beverage Containers. Containers delivered for Recycling under the California Beverage Container Recycling and Litter Reduction Act, Public Resources Code § 14500, *et seq.*

Section 28.10 Materials Removed by Customer's Contractor as an Incidental Part of Services. Recyclable Materials, Organic Materials, Solid Waste, and Bulky Items removed from a Premises by a contractor (e.g., gardener, landscaper, tree-trimming service, construction contractor, clean-out service) as an incidental part of the service being performed, rather than as a separately contracted or subcontracted hauling service.

Section 28.11 On-site or Community Composting. Organic Materials composted or otherwise legally managed at the site where it is generated (e.g., backyard composting, or on-site anaerobic digestion) or at a Community Composting site.

Section 28.12 Excluded Waste. Excluded Waste regardless of its source.

Section 28.13 Materials Generated by State and County Facilities. Materials generated by State and County facilities located in the City, including without limitation the Alhambra, Garvey, Los Angeles, and Montebello Unified School Districts, provided that the Generator has arranged services with other persons or has arranged services with another contractor through a separate agreement.

Section 28.14 Franchisee acknowledges and agrees that City may allow other persons besides the Franchisee solely to Collect materials identified in this Section that are excluded from the scope of this Franchise, as set forth above, without seeking or obtaining approval of Franchisee. If Franchisee can produce evidence that other Persons are servicing Collection Containers or are Collecting and transporting Discarded Materials in a manner that is not consistent with this Agreement or the MPMC, it must report the location, the name, and phone number of the person or company to the Administrator, or their designee, along with Franchisee's evidence. In such case, City should use reasonable efforts to notify the Generator and person providing service of Franchisee's rights under this Agreement.

Section 28.15 This Agreement and scope of this Franchise must be interpreted to be consistent with Applicable Law, now and during the Term of the Agreement. If future judicial interpretations of current law or new laws, regulations, or judicial interpretations limit the ability of the City to lawfully contract for the scope of services in the manner and consistent with all provisions as specifically set forth herein, Franchisee agrees that the scope of the Agreement will be limited to those services and materials which may be lawfully included herein and that City is not responsible for any lost profits or losses claimed by Franchisee to arise out of limitations to the scope or provisions of the Agreement set forth herein.

ARTICLE XXIX. GENERAL PROVISIONS

Section 29.01 Force Majeure. Franchisee is not in default under this Agreement should the Collection, transportation, and/or Disposal services of Franchisee are temporarily interrupted for any of the following reasons: riots; war or national emergency declared by the President or Congress and affecting City; sabotage; civil disturbance; insurrection; explosion; terrorist attack in any form including, without limitation, bombs, airplane crashes, or any chemical, biological,

or radiological weapon or device; natural disasters such as floods, earthquakes, landslides, and fires; or other catastrophic events which are beyond the reasonable control of Franchisee. "Other catastrophic events" does not include the financial inability of Franchisee to perform, service disruptions due to a work stoppage associated with a labor dispute, failure of Franchisee to obtain any necessary permits or licenses from other governmental agencies, or the right to use the facilities of any public agency where such failure occurs despite the exercise of reasonable diligence by Franchisee.

Section 29.02 Independent Contractor. Franchisee is an independent contractor and not an officer, agent, servant or employee of City. Franchisee is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Nothing in this Agreement may be construed as creating a partnership or joint venture between City and Franchisee. Neither Franchisee nor its officers, employees, agents, or subcontractors may obtain any rights to retirement or other benefits which accrue to City employees.

Section 29.03 Pavement Damage. Normal wear and tear on City's Streets resulting from general vehicular traffic excepted, Franchisee is responsible for damage to City's driving surfaces, whether or not paved, resulting from the operation of Franchisee's vehicles providing Discarded Materials services within City, willful or negligent. Franchisee understands that the exercise of this Franchise may involve operation of its Collection vehicles over private roads and streets. Disputes between Franchisee and its customers as to damage to private pavement are civil matters and complaints of damage will be referred to Franchisee as a matter within its sole responsibility.

Section 29.04 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees of Franchisee to City must be repaired or replaced by Franchisee, at Franchisee's sole expense. Except as otherwise provided, this Agreement does not purport to affect, in any way, Franchisee's civil liability to any third parties.

Section 29.05 Law to Govern; Venue. California law governs this Agreement. In the event of litigation between the parties, venue in state trial courts lies exclusively in the County of Los Angeles Superior Court. In the event of litigation in a U.S. District Court, exclusive venue lies in the Central District of California. Franchisee waives its right to jury trial.

Section 29.06 Fees and Gratuities. Franchisee may not, nor may it permit any officer, agent, employee, or subcontractor employed by it, to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for the Collection, transportation, Recycling, processing, or Disposal of Discarded Materials other than what is required to be Collected under this Agreement.

Section 29.07 Notices. All notices required or permitted to be given under this Agreement must be in writing and be personally delivered or sent by facsimile or United States certified mail, postage prepaid, return receipt requested, addressed as follows:

To City: City Manager
City of Monterey Park
320 West Newmark Avenue
Monterey Park, California 91754

Copy to: Administrator/Integrated Waste Management Coordinator
City of Monterey Park
320 West Newmark Avenue
Monterey Park, California 91754

Copy to: City Attorney
Burke, Williams & Sorensen, LLC
444 South Flower Street, Ste. 2400
Los Angeles, CA 90071

To Franchisee: Jay Ware, General Manager
Ware Disposal Inc.
1035 East 4th Street
Santa Ana, CA 92701

Notice is effective on the date personally served or sent by facsimile or, if mailed, three

business days from the date such notice is deposited in the United States mail. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph.

Section 29.08 Savings Clause and Entirety. If any non-material provision of this Agreement is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of such provision does not affect the validity and enforceability of any of the remaining provisions of this Agreement.

Section 29.09 Exhibits Incorporated. Exhibits 1 through 14 are attached. These Exhibits are incorporated in this Agreement by reference and to the extent there is any inconsistency between Exhibit 6 and 7 and this Agreement, the terms and provisions of this Agreement govern.

ARTICLE XXX. MISCELLANEOUS PROVISIONS

Section 30.01 The fees imposed pursuant to Exhibit 2 plus the AB 939 and Franchise Fees are subject to Proposition 218. City currently has the authority under a Proposition 218 procedure that it previously undertook to charge no more than the amounts set forth on Exhibit 8. To the extent the fees proposed by Franchisee plus the AB 939 and Franchise Fees and other City fees will exceed this amount either before commencement of this Franchisee or during the Term of this Agreement, the City will undertake a Proposition 218 process to determine whether the Franchisee will be allowed to charge its proposed rates. Even if Customers do not have a majority protest of the proposed fees as part of the Proposition 218 process, the City Council cannot and does not warrant or represent that it will approve the proposed fees. Should proposed fees exceed what Proposition 218 allows, and a new Proposition 218 process does not allow for the imposition of the proposed fees, Franchisee may either (i) continue to provide services at the highest rate allowed by Proposition 218; or (ii) give the City nine months' notice of intention to terminate this Franchise and charge the highest rate allowed by Proposition 218 until the Franchise is terminated. Franchisee agrees to pay for all of City's costs and fees incurred for administering a Proposition 218 process.

Section 30.02 Upon submission of this Agreement to City for approval, Franchisee must reimburse City for expenses, including staff time, consultants' and attorneys' fees, and expenses associated with granting this Agreement. The reimbursement for this Agreement is \$200,000.

Should City Council fail to approve this Agreement, the funds submitted to City by Franchisee will be returned by City to Franchisee within 30 days after City Council denial.

Section 30.03 Franchisee warrants that it will comply with all Applicable Laws relating to the services it will perform pursuant to or arising from this Agreement including, without limitation, implementing regulations, as they, from time to time, may be amended, specifically including, without limitation the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*; the California Integrated Waste Management Act of 1989; South Coast Air Quality Management District Rules; and all other applicable federal, state, and local laws and regulations whether or not such are specifically identified in this Agreement. Should implementation of SB 54 result in an increase in the Franchisee’s revenue or reduces the net cost of processing materials, Franchisee will meet and confer with City to confirm the amount of the savings and will remit this amount to City in whatever form City prefers.

Section 30.04 Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.

Section 30.05 This Agreement will be interpreted as being drafted jointly by the parties to this Agreement and words and terms are ascribed their defined or ordinary meaning and may not be interpreted against either party hereto based upon any allegation that one of the parties was responsible for the drafting of this Agreement. This Agreement contains the entire understanding between the parties and any prior statement, Agreements or representations are superseded hereby.

Section 30.06 If Franchisee is a subsidiary of a parent company, the parent company must execute a guaranty in form attached as Exhibit 9 as a condition precedent to this Agreement becoming effective.

Section 30.07 Successors. All the terms, conditions and covenants of this Agreement will inure to the benefit of and be binding upon the Parties’ successors and assigns. The provisions of

this Section will not be deemed as a waiver of any of the conditions against assignment as set forth herein.

Section 30.08 Records. The Parties will maintain full and accurate records with respect to all services and matters covered under this Agreement. Each Party will have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcript therefrom, and to inspect all program data, documents, proceedings, and activities. The Parties will retain such financial and program service records for at least three years after termination or final payment under this Agreement.

Section 30.09 Consistency. In interpreting this Agreement and resolving any ambiguities or inconsistencies between the MPMC, this Agreement, and its Exhibits, the MPMC takes precedence over any ambiguities or inconsistencies. Any other inconsistencies or ambiguities will be resolved in the following order:

- A. The main body of this Agreement; and then
- B. Exhibits to this Agreement.

Section 30.10 Acceptance of Electronic Signatures/Counterparts.

- A. The Parties agree that agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile or by e-mail/PDF transmission. Such electronic signature will be treated in all respects as having the same effect as an original signature.
- B. This Agreement may be executed in any number or counterparts, each of which will be an original, but all of which together will constitute one instrument executed on the same date.

Section 30.11 City is subject to the California Public Records Act (Government Code § 7920.000, *et seq.*) and nothing in this Agreement is intended to impair City's requirements or obligations under that Act. Franchisee agrees that all data and reports including without limitation business operations, Customer lists, routing, tonnage, Service Levels, work orders

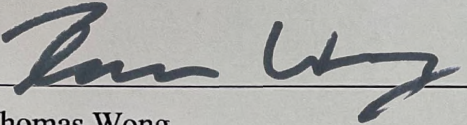
issued from dispatch, Customer service logs and account notes, and work force and bargaining agreements, do not constitute proprietary information or trade secrets and must be made available to the Administrator or their designee upon request and within five Working Days.

Section 30.12 Transition to Next Discarded Materials Enterprise. If in the final 12 months of the period during which Franchisee is to provide Collection services under this Agreement, Franchisee and City have not entered into a succeeding agreement, Franchisee must cooperate fully with City and the subsequent Discarded Materials enterprise(s), Franchisee(s), licensee(s), permittee(s), or other Person providing services similar to the services so as to assure an efficient, orderly, timely, and effective transition. In that regard, Franchisee agrees to make available to City and to prospective proposers in any competitive process used by City to select a successor, route maps, customer lists, and all other records requested by City.

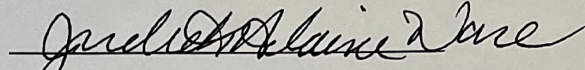
[SIGNATURES FOLLOW]

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

City OF MONTEREY PARK

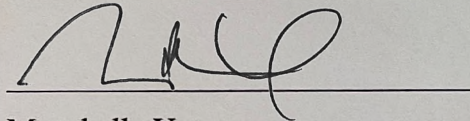


Thomas Wong
Mayor




Judith Helaine Ware
President

ATTEST:



Maychelle Yee,
City Clerk

APPROVED AS TO FORM:

By:  _____

Karl H. Berger,
City Attorney

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EXHIBIT 1:
FRANCHISE AREA OF THE AGREEMENT

Exhibit 1 is a map of the City of Monterey Park on file with the City Clerk identified as Exhibit 1 to this Agreement. It is incorporated into this Agreement by this reference.

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**EXHIBIT 2:
INITIAL MAXIMUM RATES FOR FRANCHISEE SERVICES**

2.1. These Franchisee rates shall be in effect for the period of September 1, 2024 to August 31, 2025 and all payments for utility billings must be collected by the Franchisee. The Franchisee rates below do not include any administrative, or other, fee that the City may require identified in Section 17.02.B. Franchise Fees, AB 939 Fees, and any other fees assessed by the City must be added to the rates charged to customers, but may not be itemized on Customer bills.

2.1.1 Residential Cart Service - Collection and Recycling of Solid Waste, Source Separated Recyclables, and Organic Materials

Cart Size	Monthly Rate
96-Gallon Solid Waste Cart, Recycling, and Organics Cart	\$29.99
96-Gallon Solid Waste Cart, 64-Gallon Recycling, and 64-Gallon Organics Cart	\$28.00
64-Gallon Solid Waste Cart, 96-Gallon Recycling, and 96-Gallon Organics Cart	\$27.87
96-Gallon Solid Waste Cart, Recycling, and Organics Cart	\$27.00
Extra Black (Solid Waste) Cart – 96 gal	\$10.00
Extra Black (Solid Waste) – 64 gal	\$8.00
Extra Black (Solid Waste) – 32 gal	\$6.00
Extra Recycling Cart – 96 gal	\$7.50
Extra Recycling Cart – 64 gal	\$5.50
Extra Recycling Cart – 32 gal	\$3.50
Extra Organics Cart – 96 gal	\$9.00
Extra Organics Cart – 64 gal	\$7.50
Extra Organics Cart – 32 gal	\$5.00
Roll-out Charge	\$25.00

**EXHIBIT 2:
INITIAL RATES FOR FRANCHISEE SERVICES**

Cart Size	Monthly Rate
Extra Exchange Cart	\$35.00
Special Pick-Up Fee for Residential Cart per Section 13.04 (per occurrence)	\$35.00

2.1.2 Residential Bin Service – Collection and Recycling of Solid Waste and Source Separated Recyclables, and Organic Materials

Bin Size	Frequency	Monthly Rate
1 Cubic Yard – Solid Waste	1x per Week	\$99.00
	2x per Week	\$180.00
	3x per Week	\$255.00
	4x per Week	\$320.00
	5x per Week	\$385.00
	6x per Week	\$450.00
2 Cubic Yard – Solid Waste	1x per Week	\$111.00
	2x per Week	\$188.00
	3x per Week	\$290.00
	4x per Week	\$360.00
	5x per Week	\$430.00
	6x per Week	\$500.00
3 Cubic Yard – Solid Waste	1x per Week	\$125.00
	2x per Week	\$250.00
	3x per Week	\$360.00

**EXHIBIT 2:
INITIAL RATES FOR FRANCHISEE SERVICES**

Bin Size	Frequency	Monthly Rate
	4x per Week	\$450.00
	5x per Week	\$540.00
	6x per Week	\$630.00
Special Pick-up Fee for Residential Bin Service per Section 13.05	Per Occurrence	\$125.00

- 2.1.3 Temporary Bin Service to Residential Customers and Commercial Premises. Maximum rate for bin delivery and removal, recycling service, and disposal of bin contents.

One 3-yd bin, maximum rate is \$125.00 plus any fees assessed by the City.

Franchisee shall be responsible for billings and collections for all temporary bin services provided to Customers, paying franchise fees to the City, and submitting reports to the City regarding the quantities of materials collected, recycled, and disposed, and gross receipts received from the temporary bin services provided.

- 2.1.4 Abandoned Item Collection Service – Maximum rate for abandoned item collection service is \$5,000 per month (equivalent to \$60,000 per year), plus any fees assessed by the City.

Franchisee shall bill City on a monthly basis for abandoned item collection services provided to the City.

2.2 Annual Adjustment of Maximum Rates.

The rates at which Franchisee is paid by City for the services provided will be adjusted annually on September 1 (beginning September 1, 2025) based on the average annual published Consumer Price Index (CPI) for all urban consumers in the Los Angeles-Long Beach-Anaheim region (CUURS49ASA0), as published by the U.S. Bureau of Labor

EXHIBIT 2:
INITIAL RATES FOR FRANCHISEE SERVICES

Statistics, between the calendar year ended December before the Rate Year anniversary date, and the calendar year ended the prior December. For example, for the first rate increase effective September 1, 2025, the change in indices will be measured as the percentage change from the average of the monthly indices for the calendar year ending December 2024 to the average of the monthly indices for the calendar year ending December 2023. If the index is discontinued, an alternative index must be approved by the City Manager. If there is no increase in the CPI or if the CPI decreases, the Rates remain unchanged from the previous Rate Year.

The maximum rate for temporary bin service, net of any city fees, will be adjusted annually on September 1 (beginning September 1, 2025) by the procedure mentioned above.

Consumer Price Index for All Urban Consumers (CUURS49ASA0), All Items, Los Angeles-
Long Beach-Anaheim, CA

The CPI rate adjustment index is calculated using the “average annual change” as demonstrated in the example below, measured for the 12 months ending December before the Rate Year anniversary date compared to the 12 months ending December in the previous year. The Bureau of Labor Statistics publishes the Consumer Price Index for All Urban Consumers (CUURS49ASA0), All Items, Los Angeles-Long Beach-Anaheim.

In the example below, the average annual index for the 12 months ended December 2022 of 310.782 is entered in Column B, Row 1, “New Index Value,” of the example rate adjustment formula below in Table A, and the average annual index for the 12 months ended December 2021 of 289.244 is entered in Column A, Row 1, “Old Index Value” below in Table A. This would have resulted in a 7.40% increase to the rates as calculated in Column C, Row 1 of Table A.

EXHIBIT 2: INITIAL RATES FOR FRANCHISEE SERVICES

**CPI for All Urban Consumers (CPI-U)
Original Data Value**

Series Id: CUURS49ASA0
 Not Seasonally Adjusted
 Series Title: All items in Los Angeles-Long Beach-Anaheim, CA,
 Area: Los Angeles-Long Beach-Anaheim, CA
 Item: All items
 Base Period: 1982-84=100
 Years: 2011 to 2017

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2017	252.373	253.815	254.525	254.971	255.674	255.275	256.023	256.739	257.890	258.883	259.135	259.220	256.210	254.439	257.982
2018	261.235	263.012	264.158	265.095	266.148	265.522	266.007	266.665	268.032	269.482	268.560	267.631	265.962	264.195	267.730
2019	269.468	269.608	271.311	273.945	274.479	274.380	274.682	274.579	276.054	278.075	277.239	275.553	274.114	272.199	276.030
2020	277.755	278.657	276.589	275.853	276.842	278.121	279.899	280.116	279.366	279.947	280.102	279.560	278.567	277.303	279.832
2021	280.178	281.347	282.648	285.808	287.620	289.218	290.890	291.333	292.209	294.961	296.790	297.925	289.244	284.470	294.018
2022	301.209	302.164	306.679	308.302	310.649	314.072	313.415	313.608	315.033	317.014	314.633	312.601	310.782	307.179	314.384
2023	318.591	317.571	317.873	320.089	320.514	322.055	321.931	324.050	324.984					319.449	

Table A: Calculate Percentage Change in Indices

Row	Rate Category	A Old Index Value	B New Index Value	C Percent Change In Index ((Column B/Column A) -1)
1	All Rates	289.244	310.782	7.40%

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EXHIBIT 3: CONTAINER SPECIFICATIONS

All containers provided to Customers by Franchisee must meet these minimum specifications.

Container Standards: All carts are to be new and all bins (including roll-offs) distributed to customers are to be clean, newly painted, in good repair, and free of graffiti and tags. Bins provided for temporary or drop-box service do not have to be newly painted, but must be clean, in good repair, and free of graffiti and tags.

1. All Carts must be manufactured by injection or rotational molding methods. The Cart handles and handle mounts may be an integrally molded part of the Cart body or molded as part of the lid. The Cart handles must provide comfortable gripping area for pulling or pushing the Cart or lifting the lid. Pinch points are unacceptable. Carts provided to Customer must have a useful life of 10 or more years or more as evidenced by a manufacturer's warranty or other documentation acceptable to the City.
2. Carts must remain durable, and at a minimum, must meet the following durability requirements to satisfy its intended use and performance, for the Term of this Agreement: maintain its original shape and appearance; be resistant to kicks and blows; require no routine maintenance and essentially be maintenance free; not warp, crack, rust, discolor, or otherwise deteriorate over time in a manner that interferes with its intended use; resist degradation from ultraviolet radiation; be incapable of penetration by biting or clawing of household pets (i.e., dogs and cats); the bottoms of Cart bodies must remain impervious to any damage, that would interfere with the Cart's intended use after repeated contact with gravel, concrete, asphalt, or any other rough and abrasive surface; all wheel and axle assemblies are to provide continuous maneuverability and mobility as originally designed and intended.
3. Carts must be resistant to common household or Residential products and chemicals; human and animal urine and feces; and, airborne gases or particulate matter currently present in the ambient air of the Service Area.
4. All Bins with a capacity of one cubic yard or more must meet applicable Federal regulations for Bin safety and be covered with attached lids.
5. Franchisee must obtain City's written approval of Container material, design, colors,

EXHIBIT 3: CONTAINER SPECIFICATIONS

labeling, and other specifications before acquisition, painting, labeling, or distribution occurs.

6. When purchasing plastic Collection Containers, Franchisee must purchase Containers that contain a minimum of ten percent (10%) post-consumer recycled plastic content, unless such requirement is waived by the City Administrator.
7. Container lids must be designed such that the follow requirements are met when properly utilized by the customer:
 - a. Prevents the intrusion of rainwater and vectors;
 - b. Prevents the emissions on odors;
 - c. Enables the free and complete flow of material from the Container during the dump cycle without interference with the material already deposited in the truck body or the truck body itself and its lifting mechanism;
 - d. Permits users of the Cart to conveniently and easily open and shut the lid throughout the serviceable life of the Cart;
 - e. Hinges to the Cart body in such a manner to enable the lid to be fully opened, free of tension, to a position whereby it may rest against the backside of the Cart body;
 - f. Prevents damage to the Container body, the lid itself, or any component parts through repeated opening and closing of the lid by Generators or in the dumping process as intended;
 - g. Remains closed in winds up to twenty-five (25) miles per hour from any direction. All lid hinges must remain fully functional and continually hold the lid in the original designed and intended positions when either opened or closed or any position between the two (2) extremes; and,
 - h. Designed and constructed such that it prevents physical injury to the user while opening and closing the Cart.

EXHIBIT 3: CONTAINER SPECIFICATIONS

8. Containers must be stable and self-balancing in the upright position, when either empty or loaded to its maximum design capacity with an evenly distributed load, and with the lid in either a closed or an open position. Containers must be capable of maintaining upright position in sustained or gusting winds of up to 25 miles per hour as applied from any direction.
9. Containers must be capable of being easily moved and maneuvered, if applicable, with an evenly distributed load equal in weight to its maximum design capacity on a level, sloped or stepped surface.
10. All such Containers must be recyclable at the end of their useful life.
11. All Containers must be designed and constructed to be watertight and prevent the leakage of liquids.

Container Colors: Franchisee must provide all Customers with Collection Containers that comply with the Container color requirements specified in this Exhibit 3, or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law. Colors must be colorfast and resistant to fading as a result of weathering or ultraviolet degradation; and the lids and bodies must be uniform for each Container type, as follows:

1. Recyclable Materials Container lids must be blue;
2. Organic Materials Container lids must be green; and,
3. Solid Waste Container lids must be black or grey.
4. Source Separated Food Waste Container lids must be brown.

Hardware such as hinges and wheels on the Containers may be a different color than specified above. All Containers must comply with these color requirements.

Containers must have consistent colors that will be in compliance with the Container color requirements specified in SB 1383, 14 CCR Section 18984.8. However, in accordance with Container requirements specified in SB 1383, Franchisee is not required to replace existing Containers that do not comply with the color requirements, including Containers purchased

EXHIBIT 3: CONTAINER SPECIFICATIONS

before January 1, 2022, before the end of the useful life of those Containers, or before January 1, 2036, whichever comes first. Franchisee is required to have all Containers in compliance with the color requirements of SB 1383 by January 1, 2036.

Container Labeling: Solid Waste, Recyclable Materials, and Organic Materials Carts must carry stickers/labels or other identifying markings indicating the materials that should and should not be placed in each Container.

All Carts that are not currently in Franchisee's inventory must include a high-quality educational information label using in-mold technology, such that all labeling must be integral to the outside of the lid, through the use of injection molding, and may not be affixed to any part of the Cart or lid using adhesives. Notwithstanding the provisions of this Exhibit 3, or the requirements of SB 1383, the in-mold lid label must, at a minimum, include for each Container: primary materials accepted; a clear indication of Prohibited Container Contaminants for that Container type, notification forbidding Hazardous Waste and describing proper Disposal thereof. Design for the in-mold labels must be approved by City before ordering labels or Carts. Lids must be replaced when in-mold labels become worn, but no later than ninety (90) days of request from City. Information on the Solid Waste Carts must include the telephone number to call for Franchisee for Bulky Item pickups and for general Customer service. All Carts must be labeled in accordance with CalRecycle requirements under SB 1383 throughout the Term of this Agreement. In-mold labels must be designed to include English, Spanish, and Chinese. Hot stamps must be on the top of the lid and/or on the body of the Cart and be reviewed and approved by City.

Service Standards:

1. All Customers receiving cart service must be initially provided with new carts.
2. When a Customer notifies Franchisee of a broken or damaged container, Franchisee must replace or repair the container before the Customer's next scheduled collection.
3. If a Customer reports that a container has been stolen and Franchisee can verify that the container has been stolen and not re-purposed, Franchisee must provide the Customer with

EXHIBIT 3: CONTAINER SPECIFICATIONS

a replacement container before the Customer's next scheduled collection.

4. The standard size for carts is 96 gallons. Franchisee must provide Customers desiring a smaller cart with either a 32 or 64 gallon cart.
5. Customers provided with bin service have the option to select one or more 2, 3, or 4 cubic yard bins. When determining the level of service to be provided to a Customer receiving bin service, Franchisee must present the Customer with the combination of bin size, quantity, and frequency of weekly collection that meets the Customer's needs at the lowest possible monthly cost.
6. If a Customer consistently overfills a container such that on collection day refuse is spilling from the container, and the Customer refuses to accept a larger container or an additional container, Franchisee must bring this situation to the attention of the Administrator. The Administrator may take measures allowed by the Monterey Park Municipal Code to ensure that the Customer is subscribing to a level of service consistent with its needs.
7. After containers are emptied, they must be returned to the location from which they were picked up by Franchisee's employees, upright and with lids properly secured. Franchisee's employees must use reasonable means to ensure that containers are not deposited in any driveway, sidewalk, or street other than at the curb.

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EXHIBIT 4:
PLANNING REQUIREMENTS AND CUSTOMER SERVICE AND
EDUCATION

- 4.1. Transition Plan. Franchisee must provide the City with a transition plan no later than May 15, 2024, which shall include, without limitation:
 - 4.1.1 Franchisee's plan and schedule for acquiring and providing the vehicles and containers required to provide the services required by this Agreement
 - 4.1.2 Descriptions or vendor specification sheets for the vehicles and containers that Franchisee will provide
 - 4.1.3 Copies of the education and informational materials that Franchisee will provide to customers
 - 4.1.4 Franchisee's Customer list and copies of collection route maps
- 4.2. Customer Education and Communication. Franchisee must provide all Customers with education and information materials as follows:
 - 4.2.1 To all Customers during the Pre-service Planning Period described in Section 5 of this Agreement, and to all new customers, written information that describes:
 - a. Franchisee's services, including how materials are Diverted from Disposal and container sizes available
 - b. Customer's collection schedule, including when collection will occur when a Customer's collection day falls on a Holiday, and those Holidays that are observed by Franchisee.
 - c. How refuse and materials are to be prepared and placed in containers and a description of wastes and materials that are not be placed in containers
 - d. How containers are to be placed and made accessible for collection by Franchisee
 - e. Proper handling and disposal of hazardous wastes and universal wastes, including identification of local facilities and events that accept these wastes

EXHIBIT 4:
PLANNING REQUIREMENTS AND CUSTOMER SERVICE AND
EDUCATION

- f. How to contact Franchisee's customer service office, including the telephone number, email address, and times during which customer service personnel are available to respond to customer requests
 - g. Franchisee's policy for investigating and responding to Customer complaints and requests for service
 - h. The availability of rollout/backyard service, the fees associated with this service, and the criteria or process for applying for an exemption to these fees.
- 4.3 Quarterly Outreach. Once per quarter throughout the Term of this Agreement, Franchisee must provide Customers with a newsletter or bill insert, as determined by the Administrator, that describes and discusses:
- a. The percent of waste and materials collected from Customers that Franchisee has Diverted from Disposal during the previous six months
 - b. Upcoming local events for the collection of hazardous and universal waste
 - c. Planned changes to Franchisee's services, collection schedules, or routes
 - d. How refuse and materials are to be prepared and placed in containers and a description of wastes and materials that are not be placed in containers
 - e. Any other issues related to the Franchisee's services that are affected by Customer behavior
- 4.4 Educational Materials for Tenants. Franchisee must provide Multi-Family property managers/Owners with public education materials, required by SB 1383, for their distribution to all tenants, employees, contractors, and Customers of the property annually (or more frequently upon Customer request). The public education materials must include, at a minimum, information about Organic Waste recovery requirements, proper sorting of Discarded Materials, and move-in/move-out information and procedures. Multi-Family property managers/Owners may request these materials more frequently if needed to comply

EXHIBIT 4:
PLANNING REQUIREMENTS AND CUSTOMER SERVICE AND
EDUCATION

with the SB 1383 requirement to provide information to new tenants before or within 14 days of occupancy.

- 4.5 Franchisee must provide electronic bill inserts (or separate email attachments) to Customers who are billed electronically, and paper bill inserts to Customers who receive paper bills. For Customers receiving electronic bills, Franchisee agrees to distribute newsletters, bill insert, or other information as attachments to Customer invoices, within Franchisee's billing system requirements. Electronic bill inserts/attachments must be readily available for the Customer to view upon receipt of the invoice (attachments may not be provided as links). Upon City request for billing inserts, Franchisee must comply with such request during its next billing cycle for the targeted Customer group, if specified. Franchisee must perform this service with no additional requirement for compensation.
- 4.6 Before distributing any materials to Customers, Franchisee must provide drafts of these materials to the Administrator for review and comment at least thirty (30) days prior distribution of these materials to Customers.
- 4.7 Franchisee's customer service telephone number and email address is to be identified on all materials distributed to Customers.
- 4.8 All costs for preparation, printing, and distribution of customer education and information materials is to be at Franchisee's expense, and may not be billed to or the responsibility of City or Franchisee's Customers.

**EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES**

The following liquidated damages apply and are due and payable by Franchisee for breaches of the terms of this Agreement by Franchisee.

Conditions When Liquidated Damages Apply		Liquidated Damage Amount
I. Franchisee Operations		
1.1	Failure of Franchisee to achieve and maintain a monthly Diversion standards as described in Article 8 and Exhibit 11 of this Agreement.	\$5,000 per month for each month that the required Diversion standards are not achieved or maintained
1.2	Failure to implement the services described in this Agreement	\$5,000 per day that the services are not implemented
1.3	Failure to cleanup litter or spills from Franchisee's vehicles as specified in this Agreement	\$500 per incident
1.4	Failure to deliver a container to a Customer or make a container exchange requested by a Customer before the Customer's next scheduled collection.	\$100 per incident
1.5	Failure to repair or replace a damaged or missing container before the Customer's next scheduled collection.	\$100 per incident
1.6	Failure to respond to a Customer service request within 24 hours or the end of the next business day, whichever is sooner.	\$100 per incident

EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES

1.7	Failure to notify a Customer of the reason for non-collection.	\$100 per incident
1.8	Failure to collect a missed pick-up before the end of the next business day after receiving a notice from Customer	\$200 per incident
1.9	Failure to replace containers in their approximate original, upright position after service more than 20 times in any month	\$200 per incident greater than 20 per month
1.10	Failure to repair damage caused to private property within 30 days	\$500 for each day greater than 30 that the damage is not repaired
1.11	Failure to begin service to a new Customer within 5 business days of receiving Customer request	\$200 per incident
1.12	Failure to remove containers from a premises that is no longer receiving service from Franchisee within 3 days of being requested to do so by the City or Customer	\$500 per day that the containers are not removed after request by the City of Customer
1.13	Providing services to Customers that are not authorized by this Agreement	\$1,000 per incident

EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES

Conditions When Liquidated Damages Apply		Liquidated Damage Amount
2. Franchisee Vehicles		
2.1	Use of vehicles that are not in compliance with SCAQMD Rule 1193	\$5,000 per vehicle per day that such a vehicle is used in the City
2.2	Use of any vehicles in the City that have not been properly registered or inspected	\$500 per vehicle per day that such a vehicle is used in the City
2.3	Failure to remove graffiti or tagging from vehicles	\$500 per vehicle

Conditions When Liquidated Damages Apply		Liquidated Damage Amount
3. Containers		
3.1	Failure to provide containers that meet the minimum standards specified in this Agreement	\$10 per container not meeting the minimum standards
3.2	Failure to place labels or stickers on containers as required by this Agreement	\$10 per container
3.3	Failure to remove graffiti or tagging from containers	\$25 per incident

Conditions When Liquidated Damages Apply		Liquidated Damage Amount

EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES

4. Submittals to the City		
4.1	Failure to provide a monthly report, annual report, or other required submittal by the due date	\$100 per day that the report or submittal is not submitted
4.2	Submittal of false or inaccurate information on a report or form	\$1,000 per incident per report
4.3	Failure to provide verification of insurance or copies of inspections or certifications requested by City or required by this Agreement by the due date	\$250 per incident
4.4	Failure to provide an acceptable annual update to Franchisee's Waste Disposal and Diversion Plan	\$500 per incident

EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES

Conditions When Liquidated Damages Apply		Liquidated Damage Amount
5. Communication With Customers		
5.1	Failure to provide customer service representatives fluent in English, Spanish, and Chinese	\$200 per day
5.2	Failure to provide notifications to customers that are written in English, Spanish, or Chinese	\$200 per incident
5.3	Failure to provide advance copies of notifications to Customers to the City for review and comment	\$500 per incident
5.4	Failure provide notifications, newsletters, or other Customer education materials required by this Agreement	\$1,000 per incident
5.5	Acceptance or demands for gratuities or any other payments from Customers not specifically authorized by this Agreement	\$10,000 per incident
5.6	Representing that Franchisee has the exclusive right to provide temporary bin service to Customers	\$500 per incident
6. Accuracy of Billing		

EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES

6.1	Each Customer invoice that is not prepared in accordance with the City's approved Rate schedule, in excess of ten (10) annually:	\$25 per invoice not to exceed \$2,500 per Billing run
6.2	For each instance or invoice in which Franchisee imposes a fee not in accordance with the approved Rate schedule and not approved in advance in writing by City, or not requested by the service recipient which exceeds ten (10) such occurrences annually:	\$50 per incident
6.3	Failure to provide a Customer with a response, including an explanation and/or correction, to a Billing Complaint within seven (7) Business Days from the Complaint:	\$100 per incident Each additional day response not provided: \$50
7.	Cooperation with Service Provider Transition	
7.1	For each day routing information requested by City in accordance with Section 30.12 is received after City-requested due dates, both for preparation of a request for proposals and for new service provider's implementation of service	\$250 per day
7.2	For each day delivery of keys, access codes, remote controls, or other means of access to Discarded Materials Containers is delayed beyond one (1) day before new service provider servicing Customers with access issues, as	\$250 per day

EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES

described in Section 13.10		
8.	SB 1383 Requirements - Failure to meet SB 1383 requirements set forth below	
8.1	Use of Unauthorized Facilities. For each individual occurrence of delivering Discarded Materials to a Facility other than an Approved Facility(ies) for each Discarded Material type under this Agreement.	<p>1st violation - \$50 per Ton per occurrence</p> <p>2nd violation - \$100 per Ton per occurrence</p> <p>3rd and subsequent violations - \$250 per Ton per occurrence</p>
8.2	Failure to Perform Contamination Monitoring Requirements. For each failure to conduct contamination monitoring support in accordance with Section 11.2 of this Agreement	<p>1st violation - \$50 per route per occurrence</p> <p>2nd violation - \$100 per route per occurrence</p> <p>3rd and subsequent violations - \$250 per route per occurrence</p>
8.3	Failure to Comply with Container Labeling and Colors. For each occurrence of Franchisee's failure to comply with Container labeling and color requirements pursuant to SB 1383	<p>1st violation - \$50 per occurrence</p> <p>2nd violation - \$100 per occurrence</p> <p>3rd and subsequent violations - \$250 per occurrence</p>

EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES

8.4	Failure to Conduct Compliance Tasks. For each failure to conduct any compliance review, Discarded Materials evaluations pursuant to SB 1383, and/or other inspection required by this Agreement.	<p>1st violation - \$50 per occurrence</p> <p>2nd violation - \$100 per occurrence</p> <p>3rd and subsequent violations - \$250 per occurrence</p>
8.5	Failure to Issue Contamination Notices. For each failure of Franchisee Collection personnel to issue contamination notices and Non-Collection Notices and maintain documentation of issuance as required by 13.02 of this Agreement	<p>1st violation - \$50 per route per day</p> <p>2nd violation - \$100 per route per day</p> <p>3rd and subsequent violations - \$250 per route per day</p>
8.6	Failure to Conduct Follow-Up Inspections. For each failure to conduct a follow-up inspection as required by Section 13.02 of this Agreement.	<p>1st violation - \$50 per occurrence</p> <p>2nd violation - \$100 per occurrence</p> <p>3rd and subsequent violations - \$250 per occurrence</p>
8.7	Failure to establish a recycling and/or organics program for each Customer in compliance with SB 1383, unless provided a waiver by the City	<p>\$100 per non-compliant Customer per year as of December 31 of each year</p>

EXHIBIT 5:
SCHEDULE OF LIQUIDATED DAMAGES

8.8	Failure to Maintain and/or Provide Access to Information Systems	\$100 per day
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Payment of any liquidated damages by Franchisee does not release Franchisee from fulfillment of the terms of this Agreement.

EXHIBIT 6:
CITY REQUEST FOR QUALIFICATIONS AND FRANCHISEE'S
STATEMENT OF QUALIFICATIONS

EXHIBIT 7:
CITY REQUEST FOR APPLICATIONS AND FRANCHISEE'S APPLICATION
FOR A WASTE COLLECTION AND RECYCLING FRANCHISE

EXHIBIT 8:
EXHIBIT RESERVED FOR PROPOSITION 218 RATES

EXHIBIT 9:
FORM OF GUARANTY

PARENT COMPANY GUARANTEE

This GUARANTEE AGREEMENT ("Guarantee") is made as of the ___day of _____, 2024, by _____ ("Guarantor"), for the benefit of the City of Monterey Park ("City"). Guarantor and City are individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS City has entered into a Solid Waste Hauling Franchise Agreement (the "Agreement") dated _____, 2024 with _____ ("Franchisee") pursuant to which Contractor is obligated to provide residential or commercial solid waste hauling services within the City on the terms and conditions set forth therein.

WHEREAS Guarantor is the parent organization of Franchisee;

WHEREAS Guarantor has agreed to guarantee the performance of the Agreement in the manner hereinafter set forth;

WHEREAS this Guarantee is approved by, or is made pursuant to authority granted by, the Board of Directors of Guarantor;

WHEREAS the Board of Directors of Guarantor has determined that this Guarantee directly, or indirectly, benefits Guarantor.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. In consideration of the City entering into the Agreement with the Franchisee, as Guarantor hereby acknowledges, Guarantor hereby unconditionally and irrevocably guarantees to the City:

EXHIBIT 9:
FORM OF GUARANTY

- 1.1 The due and punctual performance and observance by the Franchisee of all duties, acts, covenants and obligations to be performed or observed by the Franchisee under or pursuant to the Agreement; and
 - 1.2 The due and punctual payment by the Franchisee of all sums payable under or pursuant to the Agreement to the City as and when the same fall due.
2. In the event Franchisee fails to carry out, observe or perform any of the acts, obligations, duties, undertakings, covenants and conditions under the Agreement, Guarantor will be liable for and must indemnify City against all losses, damages, costs, expenses, whatsoever which City may incur by reason or as a consequence or any such failure on the part of Franchisee.
3. Guarantor is discharged or released from this Guarantee by the occurrence of any one or more of the following:
 - 3.1 Any alteration to the nature of the extent of the services or otherwise to the terms of the Agreement
 - 3.2 Any allowance of time, forbearance, indulgence or other concession granted to the Franchisee under the Agreement or any other compromise or settlement of any dispute between the City and the Franchisee;
 - 3.3 The liquidation, bankruptcy, administration, dissolution, or any change in name, composition or constitution of the Franchisee or the Guarantor.
4. Guarantor understands and acknowledges the critical nature of the services provided by Franchisee pursuant to the Agreement, and the critical importance of those services being provided to the community in a timely fashion. The failure of Franchisee to timely collect and haul solid waste in accordance with the terms and conditions of the Agreement poses a significant risk to public health and safety. Consequently, Guarantor's duty to guarantee the punctual performance of Franchisee's solid waste collection and hauling obligations shall attach immediately upon demand from the City and without regard to whether City has yet

EXHIBIT 9:
FORM OF GUARANTY

taken action against Franchisee or exhausted all or any remedies available to it under the Agreement.

5. This Guarantee is a continuing guarantee and, accordingly, remains in effect until all obligations, duties, undertakings, covenants, conditions and warranties now or hereafter to be carried out or performed by the Franchisee under the Agreement, or any amendments thereto, are satisfied or performed in full and is in addition to and not in substitution for any other security for which the City may at any time hold for the performance of such obligations and may be enforced without first having recourse to any such security and without taking any other steps or proceedings against the Franchisee. The City's rights under this Guarantee are in addition to and not exclusive of those provided by the Agreement or by law.
6. Notwithstanding anything to the contrary herein, Guarantor's liability under this Guarantee may not exceed Franchisee's liability under the Agreement.
7. All notices, requests, demands and other communication under this Guarantee are be deemed to be given (a) when delivered in person to the address of the Party listed below, (b) upon confirmation of receipt when transmitted by facsimile transmission to the number of the Party listed below, (c) upon receipt after dispatch by registered or certified mail to the address of the Party below, or (d) on the next business day if transmitted by national overnight courier to the address of the Party below, with confirmation of delivery.

To Guarantor:

To City:

City of Monterey Park

Attn: City Manager

320 West Newmark Avenue

Monterey Park, CA 91754

Fax: 626-280-4537

**EXHIBIT 9:
FORM OF GUARANTY**

8. This Guarantee is binding upon Guarantor and its successors and assigns.

9. This Guarantee constitutes the entire agreement and understanding between the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof. Each of the Parties acknowledges that no other Party, nor any agent or attorney of any other Party, has made any promise, representation, or warranty whatsoever, and acknowledges that the Party has not executed or authorized the execution of this Guarantee in reliance upon any such promise, representation or warranty, that is not expressly contained herein. Guarantor is responsible for guarantying all obligations of the Franchisee under the Agreement and any amendments thereto.

10. Each of the individuals signing this agreement on behalf of a Party hereto warrants and represents that such individual is duly authorized and empowered to enter into this agreement and bind such Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Guarantee as of the date first hereinabove set forth.

GUARANTOR:	CITY:
[NAME]	
By:	By: Title: City Manager
Print:	
Title:	

EXHIBIT 10:
SCHEDULE OF SUBMITTALS

Report or Submittal	Due Date
1. Copies of initial education and marketing materials for distribution to new customers	May 15, 2024
2. Copies of Customer notifications and educational materials provided to the City	30 days before distribution to Customers
3. Proof of insurance – initial	Before the execution of this Agreement
4. Proof of insurance – revisions or updates	Within ten days of the effective date of any change or revision
5. Monthly Report	30 days after the end of the month
6. Identification of customers that generate more than 4 cubic yards of Solid Waste per week and refuse to participate in Franchisee’s recycling programs	Within 30 days of customer refusal to participate
7. Initial Waste Disposal and Diversion Plan	June 1, 2024
8. Annual update to Waste Disposal and Diversion Plan (Section 17.5.1)	June 1 of each year
9. Copy of Franchisee’s transition plan	May 15, 2024
10. Copies of collection route maps	August 1, 2024 and 45 days before the implementation of any changes
11. Copy of Franchisee’s contingency plan (Section 8.7)	August 1, 2024 and whenever the plan is changed or updated

12. Listing of Franchisee's Customers that are covered by the requirements of AB 341, AB 1826, and SB 1383	Initial list by August 1, 2024. Annual updates on September 1 of each year.
13. Payment of franchise fees and AB 939 fees to City	Within 30 days of the end of the month for which the fees are due.
14. Annual Activities Report (Section 21.03)	March 1

EXHIBIT 11:
EXAMPLE OF THE FRANCHISEE COLLECTED DIVERSION RATE
CALCULATION METHOD

Calculation. Franchisee must achieve and maintain a Diversion rate that is to be calculated for each reporting period as follows:

- A. Total weight (in tons) of Solid Waste, Recyclable Materials, and Organic Materials collected by Franchisee from Customers in the City that is Diverted from Disposal, divided by the total weight (in tons) of Solid Waste, Recyclable Materials, and Organic Materials collected by Franchisee from Customers in the City during the same reporting period.

Example: During a reporting period, Franchisee collected and diverted the following quantities:

	Collected From Customer	Diverted from Disposal
Solid Waste	500 tons	100 tons
Recyclable Materials	200 tons	156 tons
Organic Materials	200 tons	122 tons
Totals	900 tons	378 tons

The Franchisee's Diversion rate for this reporting period would be calculated as:

$$378 \div 900 = 42.0\%$$

- B. Franchisee must calculate its Diversion rate each month and report this rate to City in a method and form specified by City.
- C. Notwithstanding the other provisions of this Agreement, Franchisee must Divert from Disposal not less than sixty-five percent (65%) of all Construction and Demolition Debris collected when providing the Temporary Bin Services authorized by this Agreement.

EXHIBIT 12:
SAMPLE ROLL OUT SERVICES APPLICATION

[ADDRESS TO BE ADDED]
 Phone: [CONTACT NUMBER]
 Fax: [FAX NUMBER]
 Email: [FRANCHISEE EMAIL]
 Office Hours: [FRANCHISEE OFFICE HOURS]

[FRACHISEE NAME] is pleased to offer a free roll out service program for residents who are physically or medically unable to move their containers for trash collection. To apply, please fill out this application and provide either a recent certification signed by a licensed physician within the last year attesting to physical/medical disability (doctor's note) or DMV registration for disabled placard. If approved, you will receive a letter from [FRANCHISEE NAME] and the service will become effective within seven (7) days of the approval date. If denied, you will receive a letter stating the reason for that disapproval.

Completed applications may be mailed/dropped off to our office at [FRANCHISEE ADDRESS] or emailed to [FRANCHISEE EMAIL]. If you need help completing the application, or would like more information about the program, please call [FRANCHISEE CONTACT NUMBER].

Please PRINT all information legibly. If renewing certification, please verify that the following information is correct.

FULL NAME OF APPLICANT:	
SERVICE ADDRESS:	
(No. & Street Name)	Monterey Park, CA (Zip)
ACCOUNT NO.:	EMAIL ADDRESS:
DMV PLACARD NO. OR PHYSICIAN'S NAME:	PHONE NO.:
	()

EXHIBIT 12:
SAMPLE ROLL OUT SERVICES APPLICATION

SIGNATURE AND ACKNOWLEDGEMENT

I understand that I am required to renew my certification annually and notify the City of any change in information to maintain my eligibility. Failure to do so may result in my removal from this program. I agree that by completing this form and submitting it to the City in an electronic format, such as email, it will have the same legal effect as a form submitted by U.S. Mail or in-person. I certify, under penalty of perjury under the laws of the state of California, that the information I have provided in this application is true and correct.

PRINT NAME:

SIGNATURE:

DATE:

FOR OFFICE USE ONLY

NEW APPLICATION

DATE RECEIVED

RE-CERTIFICATION

RECEIVED BY

EXHIBIT 13: REPORTS

13.1 Records. Records must be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

1. Determine and set Rates and evaluate the financial efficacy of operations.
2. Evaluate past and expected progress towards achieving the Franchisee's Diversion goals and objectives.
3. Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under Applicable Law.
4. Determine needs for adjustment to programs or rates.
5. Evaluate Customer service and Complaints.
6. Determine Customer compliance with Applicable Law and any subsequent State-mandated Recycling requirements.

13.2 Monthly Reports. Monthly reports must be submitted by Franchisee to the City and include the following information pertaining to the most recently-completed calendar month. In addition, each monthly report must include a year-to-date summary page that includes the data submitted from the monthly report(s) submitted in the calendar year before the submittal of the current monthly report. Franchisee must report the information included in the following subsections.

13.2.1 Pursuant to Sections 9.02, 9.04, and 9.05 the weights of Solid Waste, Recyclable Materials, and Organics collected in the City, and recycled, processed, composted, transformed and disposed by Franchisee. These reports must be in a form and method specified by the City;

13.2.1.1 Holiday Tree Recycling/Collection Program weights must be reported separately in the month(s) in which they occur, pursuant to Sections 9.08 and 9.27.

EXHIBIT 13: REPORTS

- 13.2.1.2 Shredding Event weights must be reported separately in the month in which they occur or earlier upon City request pursuant to Section 9.09.
- 13.2.2 Pursuant to Section 9.21, the number of Customers to which Franchisee has provided temporary bin service, the total weight of materials collected, recycled, composted, and disposed from the temporary bin service provided, and the gross receipts received and franchise fees paid for the temporary bin service provided;
- 13.2.3 Pursuant to Sections 10.11 and 10.12, the name of each facility utilized by Franchisee and the weight of Solid Waste, Recyclable Materials and Organics taken to each facility by Franchisee. It is Franchisee's responsibility to demonstrate to City's satisfaction, that the weights reported by Franchisee are true and accurate, and represent weights of Solid Waste, Recyclable Materials, and Organics actually collected in the City by Franchisee. All information reported to the City is subject to audit and verification by the City;
- 13.2.4 Solid disposal weights reported to the City by Franchisee must be the same as those identified as being from the City and reported by Franchisee to the operators of facilities utilized by Franchisee, Los Angeles County, and the State of California Disposal Reporting System; and,
- 13.2.5 Contamination Monitoring Report. Pursuant to Sections 13.02 and 13.05, description of the Franchisee's process for determining the level of contamination or Container overfilling. Franchisee must document the contamination and/or overfilling through use of film or digital photography.
- 13.2.5.1 A record of each Special Pick-up Fee assessed, which must include, at a minimum:
- a. Name and address of the Customer;
 - b. The date the contaminated Container was observed;

EXHIBIT 13: REPORTS

- c. The staff who conducted the inspection;
 - d. The total number of violations found and a description of what action was taken for each;
 - e. Copies of all notices to Customers with Prohibited Container Contaminants; and,
 - f. Photographic documentation.
- 13.2.5.2 Documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants.
- 13.2.5.3 Summary report of Courtesy Pick-Up Notices, Non-Collection Notices, and/or Special Pick-up Fee assessment notices issued, which for each notice must include the date of issuance, Customer name, and service address.
- 13.2.5.4 A list of all Customers assessed Special Pick-up Fees, pursuant to Sections 13.04 and 13.05 of this Agreement, reported separately by Customer Type, and including the Customer name, Customer address, and reason for the assessment of the Special Pick-up Fee; the total number of instances Special Pick-up Fees were assessed in the month; and, the total amount of fees collected in the month.
- 13.2.5.5 Any other information reasonably requested by the City or specified in contamination monitoring provisions of this Agreement.
- 13.2.6 Education and Outreach
- 13.2.6.1 A copy of all education and outreach materials provided to Generators, or otherwise used for education and outreach efforts in accordance with Section 10.16 of the Agreement and Exhibit 4, including, but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, website, and social media postings.

EXHIBIT 13: REPORTS

- 13.2.6.2 A record of the date and to whom the information was disseminated, or direct contact made, in the form of a list that includes: the Generator's name or account name, the type of education or outreach received; the distribution date, and the method of distribution.
- 13.2.6.3 For any mass distribution through mailings or bill inserts, provide a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.
- 13.2.6.4 A copy of all electronic media, including the dates posted or sent of: social media posts, e-mail communications, or other electronic messages. A summary report must be provided for electronic marketing that itemizes each communication and reports performance metrics for each that are relevant to that type of communication (e.g. open and click-through rates for email marketing, engagement numbers for social media, etc.).
- 13.2.6.5 Summary of the results of the Diversion opportunity assessments provided to Customers (reporting Multi-Family separate from Commercial) by identifying the number of Diversion opportunity assessments conducted each month in the most-recently completed quarter, and contact information including address, contact names, telephone number of Persons contacted, number of Dwelling Units (for Multi-Family), and the Recyclable Materials, Organic Materials, and Solid Waste Service Level for each complex. Include any Service Level changes resulting from such visits.
- 13.2.6.6 Dates, times, and group or event names of any site visits, meetings, and events attended in the month.
- 13.2.7 Service Complaint Log. Pursuant to Section 14.04 through Section 14.07, record of all complaints, including date, time, complainant's name and address (if the

EXHIBIT 13: REPORTS

complainant is willing to give this information) and the nature and date and manner of resolution of complaint.

13.2.8 SB 1383 Non-Compliance Complaint Log. Pursuant to Section 14.03, record of all received including the following information:

13.2.8.1 Total number of Complaints received and total number of Complaints investigated.

13.2.8.2 Copies of documentation recorded for each Complaint received, which must at a minimum include the following information: (i) The Complaint as received; (ii) The name and contact information of the complainant, if the Complaint is not submitted anonymously; (iii) The identity of the alleged violator, if known; (iv) A description of the alleged violation; including location(s) and all other relevant facts known to the complainant; (v) Any relevant photographic or documentary evidence submitted to support the allegations in the Complaint; and, (vi) The identity of any witnesses, if known.

13.2.8.3 Copies of all Complaint reports submitted to the City, pursuant to Article 14 of this Agreement.

13.2.8.4 Documentation of any follow-up inspections and/or outreach, if any, conducted upon City request pursuant to Section 14.03 of this Agreement, which includes at a minimum: (i) The date the Contractor investigated the Complaint; (ii) documentation of the findings of the investigation; and (iii) Any photographic or other evidence collected during the investigation.

13.2.9 Hazardous Waste Diversion Reports. Pursuant to Section 13.09, Hazardous Waste diversion records showing the types and quantities, if any, of Hazardous Waste found in Discarded Materials that was in advertently Collected but Diverted from landfills.

EXHIBIT 13: REPORTS

- 13.2.10 Warning Notice Reports. Pursuant to Section 9.28, record of all warning notices, including date, time, Customer's name and address including a monthly total.
- 13.2.11 SB 1383 Procurement of Recovered Organic Waste Products. Pursuant to Section 9.10, record of all procurement activities, with a monthly total of the following:
- 13.2.11.1 General description of how and where the product was used and applied, if applicable;
 - 13.2.11.2 Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the recovered organic waste products were procured;
 - 13.2.11.3 Type of product;
 - 13.2.11.4 Quantity of each product; and,
 - 13.2.11.5 Invoice or other record demonstrating purchase or procurement.
- 13.2.12 Abandoned Item Collection Report. Pursuant to Section 9.19, record of all abandoned item collection services with a monthly total of the following:
- 13.2.12.1 Quantities of abandoned Bulky Items collected;
 - 13.2.12.2 The weights of abandoned Bulky Items collected, recycled, reused, and disposed; and,
 - 13.2.12.3 Any other information reasonably requested by the City or specified in abandoned item collection provisions of this Agreement.
- 13.2.13 Bulky Item Pick-up and E-Waste Report. Pursuant to Sections 9.16 and 9.20, record of all bulky item and e-waste pick-ups with a monthly total of the following:
- 13.2.13.1 Quantities of Bulky Items and E-Waste collected by Customer Type;
 - 13.2.13.2 The weights of Bulky Items and E-Waste collected, recycled, reused,

EXHIBIT 13: REPORTS

and disposed; and,

13.2.13.3 A list of all Customers requesting service reported separately by including Customer name, Customer address, date Customer requested service and date Franchisee completed service, and any other information reasonably requested by the City or specified in bulky item pickup and E-waste provisions of this Agreement.

13.2.13.4 Quarterly Community Drop-off Events must be reported separately in the month in which they occur, pursuant to Section 9.25.

13.2.14 Revenues Report. Provide a statement detailing Gross Revenues from all operations conducted or permitted pursuant to this Agreement in a form and method approved by the City as required by Article 17.

13.3 Annual Report. The annual report is the final monthly report, including annual totals, summary pages, and a compilation of any materials required by the monthly report. The annual report is due March 1 annually in a form approved by the City, including, but not limited to, the following information:

13.3.1 A summary of the previous year's (or, in the case of the initial report year, the initial year's) activities including, but not limited to, services begun or discontinued during the reporting year.

13.3.2 The number of customers for each class and level of service.

13.3.3 A record of all compliance agreements for quarantined Organic Waste that are Disposed of, including the name of Generator, date issued, location of final disposition, and the amount of quarantined Organic Waste that was required to be Disposed at a landfill, pursuant to Section 13.01.C and 13.01.D of the Agreement.

13.3.4 Written notification that the Approved Organic Waste Processing Facility(ies) has and will continue to have the capabilities to Process and recover the Compostable

EXHIBIT 13: REPORTS

Plastics, in accordance with Section 10.12.I of the Agreement.

13.3.5 A list of Franchisee's officers and members of its board of directors;

13.4 Additional Reports

13.4.1 Upon Incident Reporting. City reserves the right to request additional reports or documents in the case of unforeseen events or additional requirements imposed upon the City. The Franchisee must provide the requested reports, documents, or information within 10 Business Days upon receipt of the request or within a timeframe determined by the City Administrator or their designee, which may not to exceed 10 days.

13.4.2 AB 901 Reporting. At the City's option, City may require that Franchisee provide the City copies of Franchisee's AB 901 reports on a regular basis (such as monthly, quarterly, or annually) or within ten (10) Business Days of the request.

EXHIBIT 14:
APPROVED FACILITIES LIST

Approved Facility Type	Required Facility Information
Approved Transfer Facilities	Facility Name: Universal Waste Systems, Inc. <ul style="list-style-type: none"> • Address: 9016 Norwalk Blvd., Santa Fe Springs • Operator: Universal Waste Systems • SWIS Number: 19-AA-1140 • Facility Type: Large Volume Transfer Station • Material Type(s): All Materials
	Facility Name: Universal Waste Systems <ul style="list-style-type: none"> • Address: 2460 East 24th Street, Los Angeles • Operator: Universal Waste Systems • SWIS Number: 19-AR-1251 • Facility Type: Large Volume Transfer Station • Material Type(s): All Materials
Approved Disposal Facilities	Facility Name: Puente Hills MRF (Materials Recovery Facility) <ul style="list-style-type: none"> • Address: 2808 S Workman Mill Rd, Whittier • Operator: Sanitation Districts of L.A. County • SWIS Number: 19-AA-1043 • Facility Type: Transfer/Disposal • Material Type(s): All Black Cart Materials
	Facility Name: Chiquita Canyon Landfill <ul style="list-style-type: none"> • Address: 29201 Henry Mayo Drive, Castaic • Operator: Chiquita Canyon Inc. • SWIS Number: 19-AA-0052 • Facility Type: Landfill • Material Type(s): All Black Cart Materials
Approved C&D Facility	Facility Name: Madison Materials, Inc. <ul style="list-style-type: none"> • Address: 1035 East 4th Street, Santa Ana • Operator: Madison Materials • SWIS Number: 30-AB-0386 • Facility Type: Large Volume Transfer Station • Material Type(s): All C&D Materials

EXHIBIT 14:
APPROVED FACILITIES LIST

Approved Facility Type	Required Facility Information
Approved Organic Materials Processing Facilities	Facility Name: Puente Hills MRF (Materials Recovery Facility) <ul style="list-style-type: none"> • Address: 2808 S Workman Mill Rd, Whittier • Operator: Sanitation Districts of L.A. County • SWIS Number: 19-AA-1043 • Facility Type: Large Volume Transfer Station • Material Type(s): Food and Green Waste
	Facility Name: Universal Waste Systems, Inc. <ul style="list-style-type: none"> • Address: 9016 Norwalk Blvd., Santa Fe Springs • Operator: Universal Waste Systems • SWIS Number: 19-AA-1140 • Material Type(s): Food and Green Waste
Approved Recyclable Materials Processing Facility	Facility Name: Madison Materials, Inc. <ul style="list-style-type: none"> • Address: 1035 East 4th Street, Santa Ana • Operator: Madison Materials • SWIS Number: 30-AB-0386 • Facility Type: Large Volume Transfer Station • Material Type(s): All Blue Cart/Bin Materials
	Facility Name: Universal Waste Systems, Inc. <ul style="list-style-type: none"> • Address: 9016 Norwalk Blvd., Santa Fe Springs • Operator: Universal Waste Systems • SWIS Number: 19-AA-1140 • Material Type(s): All Blue Cart/Bin Materials

EXHIBIT 14:
APPROVED FACILITIES LIST

Approved Facility Type	Required Facility Information
Approved Reusable Materials Processing Facility	Facility Name: Madison Materials, Inc. <ul style="list-style-type: none"> • Address: 1035 East 4th Street, Santa Ana • Operator: Madison Materials • SWIS Number: 30-AB-3086 • Facility Type: Large Volume Transfer Station • Material Type(s): All Reusable Materials
	Facility Name: Universal Waste Systems <ul style="list-style-type: none"> • Address: 9016 Norwalk Blvd., Santa Fe Springs • Operator: Universal Waste Systems • SWIS Number: 19-AA-1140 • Material Type(s): All Reusable Materials, Abandoned Bulky Items, and Holiday Trees
Other Facility	Facility Name: Madison Materials, Inc. <ul style="list-style-type: none"> • Address: 1035 East 4th Street, Santa Ana • Operator: Madison Materials • SWIS Number: 30-AB-3086 • Facility Type: Large Volume Transfer Station • Material Type(s): All Abandoned, Bulk and Trees

**Request
Certificate**

<i>Initial Filing Date</i>	06/14/1982
<i>Status</i>	Active
<i>Standing - SOS</i>	Good
<i>Standing - FTB</i>	Good
<i>Standing - Agent</i>	Good
<i>Standing - VCFCF</i>	Good
<i>Formed In</i>	CALIFORNIA
<i>Entity Type</i>	Stock Corporation - CA - General
<i>Principal Address</i>	1035 EAST FOURTH STREET SANTA ANA, CA 92701-4750
<i>Mailing Address</i>	PO BOX 1318 SANTA ANA, CA 92702-1318
<i>Statement of Info Due Date</i>	06/30/2025
<i>Agent</i>	Individual JUDITH HELAINE WARE 1035 EAST FOURTH STREET SANTA ANA, CA 92701-4750

**View History****Request Access**



City of Monterey Park Signature Verification Form

Thank you for doing business with the City of Monterey Park. Please note that the City requires verification that the person executing a contract has signature authority. Signature requirements for contracts vary depending on whether a vendor conducts business in the capacity of a corporation, general partnership, limited partnership, or as an individual. When the contract is with a corporation, California Corporations Code § 313 requires the contract to be signed by: (a) one officer from the corporation's "operational group" consisting of the chairman of the board, the president, or any vice president; and (b) one officer from the corporation's "financial group" consisting of the secretary, or assistant secretary, or the chief financial officer or any assistant treasurer. Alternatively, the board of directors for the corporation can delegate signature authority to a particular individual or individuals. This is generally memorialized in the form of a resolution adopted by the board of directors. When the contract is with a consultant conducting business as a general partnership or limited partnership, the contract should be signed by a least one general partner having authority to enter into the contract on behalf of the partnership. When the contract is with an individual, that individual must sign the contract.

To ensure that the City's contracts are valid, this Signature Verification Form must be completed by vendors/contractors/consultants providing services to the City of Monterey Park.

By completing this form, the person listed below has the authority to sign all legal binding agreements with the City of Monterey Park on behalf of the company/organization listed below. If a corporation, attach a copy of the document demonstrating signature authority to this form.

The City of Monterey Park greatly appreciates your cooperation.

Date:

Type of Company/Organization:

Company/Organization Name:

Name:

Title

Signature

8-9-17
Waste + Recycling
Waste Disposal, Inc.
Judith Wane
President
JTW

Please send the completed form to the following address:

City of Monterey Park
City Clerk's office
320 West Newmark Avenue
Monterey Park, CA 91754



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/15/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER HUB International Insurance Services Inc. PO Box 255387 Sacramento CA 95865 License#: 0757776 WAREDIS-02	CONTACT NAME: Rocio Leon PHONE (A/C. No, Ext): 916-480-4134 E-MAIL ADDRESS: rocio.leon@hubinternational.com FAX (A/C, No): 916-993-7234													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC#</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Greenwich Insurance Company</td> <td>22322</td> </tr> <tr> <td>INSURER B: Westchester Surplus Lines Insurance Co.</td> <td>10172</td> </tr> <tr> <td>INSURER C: Alaska National Insurance Company</td> <td>38733</td> </tr> <tr> <td>INSURER D: Evanston Insurance Company</td> <td>35378</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC#	INSURER A: Greenwich Insurance Company	22322	INSURER B: Westchester Surplus Lines Insurance Co.	10172	INSURER C: Alaska National Insurance Company	38733	INSURER D: Evanston Insurance Company	35378	INSURER E:		INSURER F:
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INSURER C: Alaska National Insurance Company	38733													
INSURER D: Evanston Insurance Company	35378													
INSURER E:														
INSURER F:														
INSURED Ware Disposal Inc. P.O. Box 1318 Santa Ana CA 92702														

COVERAGES

CERTIFICATE NUMBER: 569974361

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$10,000 PD Ded. Per Occurrence GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	GEC3000730-09	2/28/2024	2/28/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> CA9948 <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> MCS-90	Y	Y	AEC004538609	2/28/2024	2/28/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ BI/PD Deductible \$ 10,000
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			G46863306 007	2/28/2024	2/28/2025	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			23H WS 05450	8/1/2023	8/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Transportation Pollution Liab	Y	Y	MKL7ENV104416	2/28/2023	2/28/2026	Each Poll. Condition \$5,000,000 Aggregate \$10,000,000 Retention \$10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

(General Liability Per Project Aggregate applies per written contract)
 RE: City of Monterey Park Exclusive Residential Discarded Materials

Additional Insured: City of Monterey Park, its Officers, Officials, Employees and Volunteers are included as an additional insured. Policies provide for 30 Days Notice of Cancellation

Forms: CA0444 1013, C2010 1219, CG2037 1219, CG2404 1219, CG2503 0509, IX1405 0910, MEEEI0007 0122, MEEI2220 1117, WC040306 0484, XIC411 1013, XIL424 0605
 See Attached...

CERTIFICATE HOLDER**CANCELLATION**

City of Monterey Park its Officers,
 Officials, Employees and Volunteers
 320 W. Newmark Ave.
 Monterey Park CA 91754

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ADDITIONAL REMARKS SCHEDULE

AGENCY HUB International Insurance Services Inc.		NAMED INSURED Ware Disposal Inc. P.O. Box 1318 Santa Ana CA 92702	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Excess Auto Liability Policy, Crum & Forster Specialty Insurance Co. (NAIC #: 44520) Policy # SEO-128735 Term: 2/28/24-2/28/25, Limit \$1,000,000 (Over Auto Liability Policy with Greenwich Insurance Company Policy AEC004538609 (2/28/24-2/28/25)

Excess Liability (2nd Layer), Steadfast Insurance Company (NAIC #: 26387) Policy AEC 4356768-01 Term 2/28/24-2/28/25, Limit \$10,000,000 (Policy over Westchester Surplus Lines Insurance Co. Policy G46863306 007 (2/28/24 to 2/28/25)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: WARE DISPOSAL, INC.
Endorsement Effective Date: February 28, 2024

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT TO WAIVE ANY RIGHT OF RECOVERY WE MAY HAVE AGAINST THE PERSON OR ORGANIZATION, PROVIDED THE "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURS SUBSEQUENT TO THE EXECUTION OF THE WRITTEN CONTRACT OR WRITTEN AGREEMENT.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Any person or organization where required by written contract provided that such contract was executed prior to the date of loss.	All Locations as required per written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Any person or organization where required by written contract provided that such contract was executed prior to the date of loss.	All Locations as required per written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- ELECTRONIC DATA LIABILITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
- POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
- RAILROAD PROTECTIVE LIABILITY COVERAGE PART
- UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

SCHEDULE

<p>Name Of Person(s) Or Organization(s):</p> <p>Any person or organization where required by written contract provided that such contract was executed prior to the date of loss (as permissible by law)</p>

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Project(s): Each "project" for which you have agreed, in a written contract which is in effect during this policy period, to provide a separate general aggregate limit; provided that, the contract is signed and executed prior to any loss for which coverage is sought.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
 - 1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 - 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage C regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 - 3. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
 - 4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage **A**, and for all medical expenses caused by accidents under Section I – Coverage **C**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., 2/28/2024 forms a part of Policy No. AEC004538609 issued to WARE DISPOSAL, INC. by Greenwich Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CANCELLATION NOTIFICATION TO OTHERS ENDORSEMENT

In the event coverage is cancelled for any statutorily permitted reason, other than nonpayment of premium, advanced written notice will be mailed or delivered to person(s) or entity(ies) according to the notification schedule shown below:

Name of Person(s) or Entity(ies)	Mailing Address:	Number of Days Advanced Notice of Cancellation:
City of Monterey Park, its officers, officials and employees and volunteers	320 W. Newmark Ave. Monterey Park, CA 91754	30 Days

All other terms and conditions of the Policy remain unchanged.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., 2/28/2024 forms a part of
Policy No. GEC3000730-09 issued to WARE DISPOSAL, INC.
by Greenwich Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CANCELLATION NOTIFICATION TO OTHERS ENDORSEMENT

In the event coverage is cancelled for any statutorily permitted reason, other than nonpayment of premium, advanced written notice will be mailed or delivered to person(s) or entity(ies) according to the notification schedule shown below:

Name of Person(s) or Entity(ies)	Mailing Address:	Number of Days Advanced Notice of Cancellation:
City of Monterey Park, its officers, officials and employees and volunteers	320 W. Newmark Ave. Monterey Park, CA 91754	30 Days

All other terms and conditions of the Policy remain unchanged.



CONTRACTOR’S POLLUTION LIABILITY COVERAGE FORM

TABLE OF CONTENTS

SECTION I – COVERAGES... 2
A. Insuring Agreements ... 2
1. Contractor's Pollution Liability ... 2
2. Transportation Pollution Liability... 2
3. Non-Owned Disposal Site Liability ... 3
4. Sudden And Accidental Discharge, Release, Or Escape Of Pollutants Liability... 3
5. Crisis Management And Emergency Response Costs ... 3
B. Claims And Defense ... 3
C. Supplementary Payments... 3
SECTION II – EXCLUSIONS ... 5
SECTION III – WHO IS AN INSURED ... 9
SECTION IV – LIMITS OF INSURANCE AND SELF-INSURED RETENTION OR DEDUCTIBLE... 10
A. Limits Of Insurance... 10
B. Self-Insured Retention ... 11
C. Deductible ... 11
D. Meditation... 12
E. Multiple Insureds, Claims and Claimants... 12
SECTION V – CONDITIONS... 12
SECTION VI – EXTENDED REPORTING PERIODS... 15
SECTION VI – DEFINITIONS... 16



CONTRACTOR'S POLLUTION LIABILITY COVERAGE FORM

INSURING AGREEMENT A.4. PROVIDES CLAIMS-MADE AND REPORTED COVERAGE FOR SUDDEN AND ACCIDENTAL DISCHARGE, RELEASE, OR ESCAPE OF POLLUTANTS AND REQUIRES THAT A CLAIM UNDER SUCH COVERAGE BE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO US IN WRITING DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD WE PROVIDE UNDER SECTION VI – EXTENDED REPORTING PERIODS.

VARIOUS PROVISIONS IN THIS POLICY MAY RESTRICT OR EXCLUDE COVERAGE. PLEASE READ THE ENTIRE POLICY CAREFULLY TO DETERMINE THE INSURED'S RIGHTS AND DUTIES AND WHAT IS AND IS NOT COVERED.

Throughout this Policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this Policy.

The word "insured" means any person or organization qualifying as such under Section III – Who Is An Insured. The words "we", "us" and "our" refer to the company providing this insurance. Other words and phrases that appear in quotation marks have special meaning. Refer to Section VII – Definitions.

SECTION I – COVERAGES

A. Insuring Agreements

The following Insuring Agreements apply only if that Insuring Agreement is shown as purchased by an "X" in the Declarations, and the "pollution condition" that causes a "loss" takes place in the "coverage territory". The amount we will pay is limited as described in Section IV – Limits Of Insurance And Self-Insured Retention Or Deductible.

1. Contractor's Pollution Liability

We will pay on behalf of the insured those sums in excess of the Self-Insured Retention or Deductible shown in the Declarations that the insured becomes legally obligated to pay for "loss" resulting from a "claim" for "bodily injury", "property damage", or "cleanup costs" caused by a "pollution condition" to which this insurance applies, provided:

- a. The "pollution condition" arises out of "your work"; and
- b. The "bodily injury" or "property damage" occurs, or the "cleanup costs" are incurred, during the Policy Period.

With respect only to "bodily injury", "property damage", or "cleanup costs" caused by legionella pneumophila, there must be a direct relation to a documented case of a legionella pneumophila outbreak for coverage to apply.

2. Transportation Pollution Liability

We will pay on behalf of the insured those sums in excess of the Self-Insured Retention or Deductible shown in the Declarations that the insured becomes legally obligated to pay for "loss" resulting from a "claim" for "bodily injury", "property damage", or "cleanup costs" resulting from a "transportation pollution condition" to which this insurance applies, provided:

- a. The "transportation pollution condition" arises out of "transported cargo" that is transported, delivered, or shipped by you in a "covered conveyance", or by a "carrier" on your behalf; and
- b. The "bodily injury" or "property damage" occurs, or the "cleanup costs" are incurred, during the Policy Period.

This coverage shall not be utilized to evidence financial responsibility of any insured under any applicable federal, state, provincial, or local law.

3. Non-Owned Disposal Site Liability

We will pay on behalf of the insured those sums in excess of the Self-Insured Retention or Deductible shown in the Declarations that the insured becomes legally obligated to pay for "loss" resulting from a "claim" for "bodily injury", "property damage", or "cleanup costs" resulting from a "pollution condition" at, on or under, or migrating from a covered "non-owned disposal site", provided:

- a. The "pollution condition" originates at a "non-owned disposal site";
- b. The "pollution condition" arises from waste or material generated by "your work"; and
- c. The "bodily injury" or "property damage" occurs, or the "cleanup costs" are incurred, during the Policy Period.

4. Sudden And Accidental Discharge, Release, Or Escape Of Pollutants Liability

We will pay those sums that the insured becomes legally obligated to pay for "loss" resulting from a "claim" for "bodily injury", "property damage", or "cleanup costs" resulting from a sudden and accidental "pollution condition" originating at, on or under, or migrating from, a "covered location", provided:

- a. The sudden and accidental "pollution condition" is the result of an unforeseen, unplanned, or unexpected event or circumstance;
- b. The sudden and accidental "pollution condition" commences during the Policy Period;
- c. The sudden and accidental "pollution condition" is first discovered by any insured no later than 7 days after it commences, unless a different period is shown in the Schedule Of Covered Locations;
- d. The insured reports the commencement of the sudden and accidental "pollution condition" to us in writing no later than 21 days following its discovery by any insured, unless a different period is shown in the Schedule Of Covered Locations; and
- e. The "claim" is first made during the Policy Period or the Extended Reporting Period, as provided under Section VI – Extended Reporting Periods.

5. Crisis Management And Emergency Response Costs

We will indemnify you for:

- a. "Crisis management costs" you incur as a direct result of a "crisis management event", provided that the "crisis management event":
 - (1) Arises directly from a "pollution condition" that has resulted or is reasonably likely to result in a "loss" covered under this Policy;
 - (2) Commences during the Policy Period; and
 - (3) First becomes known to a "responsible insured" during the Policy Period and is reported to us in writing as soon as practicable, but in any event during the Policy Period or within 30 days after the end of the Policy Period.

We will pay those "crisis management costs" you incur even if coverage hereunder is still to be confirmed by us, but we will stop paying such "crisis management costs" as soon as it becomes evident, to either you or us, that this insurance does not apply. "Crisis management costs" are not subject to the Self-Insured Retention or Deductible; and

- b. "Emergency response costs" you incur in excess of the Self-Insured Retention or Deductible shown in the Declarations as a direct result of the "pollution condition" that has resulted in a "loss" covered under this Policy.

B. Claims And Defense

1. With respect only to Insuring Agreements 1. through 4. above, coverage applies only if, prior to the Policy Period, no "responsible insured" knew that the "bodily injury", "property damage", or "cleanup costs" had occurred, in whole or in part. If any "responsible insured" knew, prior to the Policy Period, that the "bodily injury", "property damage", or "cleanup costs" occurred, then any continuation, change, or resumption of such "bodily injury", "property damage", or "cleanup costs" during or after the Policy Period will be deemed to have been known prior to the Policy Period.

"Bodily injury", "property damage", or "cleanup costs" which occur during the Policy Period and were not, prior to the Policy Period, known by any "responsible insured" to have occurred, includes any continuation, change, or resumption of the "bodily injury", "property damage", or "cleanup costs" after the end of the Policy Period.

"Bodily injury", "property damage", or "cleanup costs" will be deemed to have been known to have occurred at the earliest time when any "responsible insured":

- a. Reports all or any part of the "bodily injury", "property damage", or "cleanup costs" to us or any other insurer;
- b. Receives a written or verbal demand or "claim" for damages because of the "bodily injury", "property damage", or "cleanup costs"; or
- c. Becomes aware by any other means that the "bodily injury", "property damage", or "cleanup costs" have occurred or have begun to occur.

Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services, or death resulting at any time from the "bodily injury".

2. We:

- a. Will have the right to investigate any "claim" to which this insurance applies;
- b. Will have the right and duty to defend the insured against any "suit" seeking damages to which this insurance applies; and
- c. May, at our discretion, investigate any "pollution condition" and settle any "claim" that may result.

However:

- (1) We will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply;
- (2) The amount we will pay for "loss" is limited as described in Section IV – Limits Of Insurance And Self-Insured Retention Or Deductible; and
- (3) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements, or supplementary payments.

- 3.** All "claims" for damages arising out of the same, related, or continuous "pollution condition" will be considered a single "claim" and will be deemed to have been first made and reported or incurred at the time of the first "claim" is made against any insured.

Any "claim" for damages to the same person, including damages claimed by any person or organization for care, loss of services or death resulting at any time, will be deemed to have been made at the time the first of those "claims" is made against any insured.

C. Supplementary Payments

1. Loss Of Earnings And Expense Reimbursement

We will pay, with respect to any "claim" we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the "claim", including actual loss of earnings up to \$500 a day because of time off from work.
- c. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- d. Pre-judgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any pre-judgment interest based on that period of time after the offer.
- e. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the Limits Of Insurance shown in the Declarations.

2. Suit Against Indemnitee

If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee only if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of that indemnitee has also been assumed by the insured in the same "insured contract";
- d. The allegations in the "suit" and the information we know about the "pollution condition" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement, or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses, or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

As long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us, and necessary litigation expenses incurred by the indemnitee at our request will be paid as supplementary payments.

We may, at our option, appoint one counsel to defend all of the insureds and indemnitees of the insureds who are or may be involved with respect to such "suit".

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as supplementary payments ends when we have used up the applicable Limit Of Insurance in the payment of judgments, settlements, or supplementary payments, or the conditions, or terms of the agreement set forth above, are no longer met.

These payments will not reduce the Limits Of Insurance shown in the Declarations.

SECTION II – EXCLUSIONS

A. With respect to all Insuring Agreements and Supplementary Payments, this insurance does not apply to:

1. Contractual Liability

"Loss" the insured is legally obligated to pay as damages as a result of the assumption of liability in a contract or agreement. However, this exclusion does not apply to liability for damages:

- a. That the insured would have in the absence of the contract or agreement; or
- b. Assumed in a contract or agreement that is an "insured contract", provided the "loss" occurs subsequent to the execution of the contract or agreement.

2. Criminal Fines Or Criminal Penalties

Any criminal fines or criminal penalties.

3. Damage To Property

"Property damage" in any way related to any real property or facility that is or was at any time owned, operated, or occupied by, or rented to, you. However, this exclusion does not apply if the real property or facility is operated or occupied by you for the purpose of performing "your work".

4. Damage To Your Product Or Your Work

"Property damage" to "your product" or "your work" or any part of "your product" or "your work". This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

5. Employer's Liability

"Bodily injury" to:

a. An "employee" of the insured arising out of and in the course of:

- (1) Employment by the insured; or
- (2) Performing duties related to the conduct of the insured's business; or

b. The spouse, child, parent, brother, or sister of that "employee" as a consequence of such "bodily injury".

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

However, this exclusion does not apply to liability assumed by you under an "insured contract".

6. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of any "responsible insured".

7. Impaired Property

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- a. A defect, deficiency, inadequacy, or dangerous condition in "your product" or "your work"; or
- b. A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

8. Insured Versus Insured

Any "claim" made by or on behalf of an insured against any other insured. However, this exclusion does not apply to "claims" against you by any insured seeking coverage or indemnification pursuant to a written contract or agreement for a "claim" otherwise covered for "bodily injury", "property damage", or "cleanup costs".

9. Intentional Acts

"Loss" arising out of intentional, willful, or deliberate:

- a. Injury to persons or property; or
- b. Failure to comply with any permit, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental or public agency or body.

However, this exclusion does not apply to:

- (1) An insured who did not commit, participate in, or have knowledge of any of the acts described above;
- (2) Any failure to comply based upon your good faith reliance on written advice of qualified outside counsel received in advance of such non-compliance; or
- (3) Any failure to comply based upon your reasonable efforts to mitigate a "pollution condition" that necessitates immediate action, provided such "emergency response costs" are reported to us in writing within 96 hours of discovery of such "pollution incident".

10. Known Circumstances Or Conditions

"Loss" caused by, arising out of, or in any way involving a "pollution condition" at a "covered location" or resulting from "your work", including any subsequent continuation or resumption of or changes in such "pollution condition", that existed prior to the Policy Period and was known to any "responsible insured" at any time before the beginning of the Policy Period. However, this exclusion does not apply to Insuring Agreement 4. Sudden And Accidental Discharge, Release, Or Escape Of Pollutants Liability under Section I – Coverages, A. Insuring Agreements if the known "pollution condition" is shown in a Schedule Of Known Pollution Conditions attached to this Coverage Form.

11. Nuclear Energy Liability

"Loss":

- a. With respect to which an insured under this Policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada, or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of insurance;
- b. Resulting from the "hazardous properties" of "nuclear material" and with respect to which:
 - (1) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - (2) The insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization; or
- c. Resulting from the "hazardous properties" of "nuclear material", if:
 - (1) The "nuclear material":
 - (a) Is at any "nuclear facility" owned by, or operated by or on behalf of an insured; or
 - (b) Has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported, or disposed of by or on behalf of an insured; or
 - (3) The "loss" arises out of the furnishing by an insured of services, materials, parts, or equipment in connection with the planning, construction, maintenance, operation, or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions, or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

As used in this exclusion:

"Hazardous properties" includes radioactive, toxic, or explosive properties.

"Nuclear material" means "source material", "special nuclear material", or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid, or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material:

- a. Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and
- b. Resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- a. Any "nuclear reactor";
- b. Any equipment or device designed or used for:

- (1) Separating the isotopes of uranium or plutonium;
 - (2) Processing or utilizing "spent fuel"; or
 - (3) Handling, processing, or packaging "waste";
- c. Any equipment or device used for the processing, fabricating, or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- d. Any structure, basin, excavation, premises, or place prepared or used for the storage or disposal of "waste"; and includes the site on which any of the foregoing is located, all operations conducted on such site, and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

12. Other Enterprises

"Loss" arising out of any business enterprise owned, operated, or managed by the insured or its parent company or any affiliate, successor, or assignee of such company not named in the Declarations.

13. Professional Services

"Loss" arising out of any alleged or actual act, error, or omission in the rendering of or failure to render "professional services" by you or any contractor or subcontractor working on your behalf. This exclusion applies even if the "claim" against any insured alleges negligence or other wrongdoing in the supervision, hiring, employment, training, or monitoring of others by that insured, if the "pollution condition" which caused the "loss" involved the rendering of or failure to render "professional services".

However, this exclusion does not apply to a "claim":

- a. In which you committed an actual or alleged act, error, or omission relating to improper or inadequate supervision, direction, or control of any subcontractors for which you are legally liable when such contractors or subcontractors are performing operations on your behalf at a job site; or
- b. Alleging liability for construction means, methods, techniques, sequences, or procedures utilized as part of "your work".

14. Property Damage To Cargo

"Property damage" to "transported cargo".

15. Property Damage To Conveyances

"Property damage" to any "auto", railcar, train, watercraft, or aircraft operated by or on behalf of any insured resulting from a "pollution condition" caused by "transported cargo". However, this exclusion does not apply to any "claim" brought by any "carrier" for "property damage" arising out of the insured's negligence.

16. Vehicles

"Loss" arising out of the ownership, maintenance, use, operation, or entrustment to others of any aircraft, "unmanned aircraft", "auto", or watercraft. Use includes "loading or unloading".

However, this exclusion does not apply to:

- a. "Loading or unloading" within the boundaries of any "covered location" or a location where "your work" is performed; and
- b. Coverage provided under Insuring Agreements A.2. Transportation Pollution Liability, A.3. Non-Owned Disposal Site Liability, or A.4. Sudden And Accidental Discharge, Release, Or Escape Of Pollutants Liability, if shown as purchased in the Declarations.

17. War

"Loss", however caused, arising, directly or indirectly, out of:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action taken in the hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

18. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits, unemployment compensation law, or any similar law.

19. Your Product

"Loss" arising out of "your product". However, this exclusion does not apply to any "loss" arising out of any waste generated for "your work" that is relinquished to others to recycle or beneficial reuse.

B. With respect only to the Sudden And Accidental Discharge, Release, Or Escape of Pollutants Liability Insuring Agreement, this insurance does not apply to:

1. Asbestos

"Loss" in any way involving asbestos, asbestos products, asbestos fibers, or asbestos dust. However, this exclusion does not apply to asbestos in groundwater or soil.

2. Capital Expenditures

Any "capital expenditure" at a "covered location". However, this exclusion does not apply to any "capital expenditure" related to "emergency response costs" covered under Insuring Agreement **A.4.** Crisis Management And Emergency Response Costs, if shown as covered in the Declarations.

3. Lead Paint

"Loss" in any way involving a "pollution condition" that results from the existence, required removal, voluntary removal, or abatement of paint containing lead. However, this exclusion does not apply to lead based paint in groundwater or soil.

4. Material Change In Use

"Loss" in any way involving a change in the use or operations at a "covered location" that materially increases the likelihood or severity of a "pollution condition" or "claim" as compared with use or operations existing at this Policy's inception date as disclosed to us on the application and all supporting documentation.

5. Underground Storage Tanks

"Loss" in any way involving any "underground storage tank" at a "covered location", whether operational, closed, or removed.

6. Wells

"Loss" in any way involving the discharge, escape, migration, release or seepage of oil, gas, drilling fluid, or any other fluid, from any oil, gas, mineral or geothermal well.

SECTION III – WHO IS AN INSURED

Each of the following is an insured under all Insuring Agreements and Supplementary Payments:

A. If you are designated in the Declarations as:

- 1. An individual, you, and your spouse or "domestic partner", but only with respect to the conduct of a business of which you are the sole owner.
- 2. A partnership or joint venture, your members, your partners, and their spouses or "domestic partners", but only with respect to the conduct of your business.
- 3. A limited liability company, your members but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

4. An organization other than a partnership, joint venture, or limited liability company. Your "executive officers" and directors, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- B.** Any subsidiary company of yours, other than a partnership, joint venture, or limited liability company, and any company over which you have active control or majority ownership interest, or exercise management or financial control is a Named Insured with respect to the conduct of your business, provided:
1. You report all such entities to us within 90 days after you have acquired the organization; and
 2. There is no other similar primary insurance available to that organization, unless such entity has been specifically endorsed onto this Policy.

However:

- a. Coverage is afforded only until the 90th day after you acquire the subsidiary or the end of the Policy Period, whichever is earlier; and
 - b. Coverage does not apply to "loss" that first commences before you acquired the subsidiary.
- C.** Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture, or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of "your work".
- D.** In the event of your bankruptcy, your trustees, and in the event of your death or incapacity, your legal representatives, or executors, but only with respect to such trustee's, representative's, or executor's vicarious liability resulting from "your work".
- E.** Any organization, other than a partnership, joint venture, or limited liability company, you newly form during the Policy Period and over which you maintain ownership or majority interest, will qualify as an insured, if:
1. You have contractually agreed to provide insurance for such organization;
 2. There is no other similar primary insurance available to that organization, unless such entity has been specifically endorsed onto this Policy; and
 3. You report to us within 90 days after such formation that you formed the organization.

However:

- a. Coverage is afforded only until the 90th day after you form the organization or the end of the Policy Period, whichever is earlier; and
 - b. Coverage does not apply to "loss" that first commences before you formed the organization.
- F.** Any person or organization with whom you have agreed to provide additional insured status in a written contract or agreement, executed prior to the:
1. Commencement of "your work"; and
 2. Date the "pollution condition" first commenced.

Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage", or "cleanup costs" resulting from a "pollution condition" caused in whole or in part by "your work".

However, any insurance afforded to such insured:

- a. Only applies to the extent permitted by law;
- b. Will not be broader than that which you are required by the written contract or agreement to provide for such insured; and
- c. Is limited to the lesser of the Limits Of Insurance shown in the Declarations or the amount required by the written contract or agreement.

This Paragraph **F.** does not apply to any person or organization specifically named as an additional insured in an endorsement attached to this Policy.

SECTION IV – LIMITS OF INSURANCE AND SELF-INSURED RETENTION OR DEDUCTIBLE

A. Limits Of Insurance

1. The Limits Of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of insureds, "claims" made, or persons or organizations making "claims".
2. Subject to the Combined General Aggregate Limit shown in the Declarations, the Coverage Form Aggregate Limit shown in the Declarations is the most we will pay for all "loss" arising out of all "pollution conditions" under all Insuring Agreements.
3. Subject to the Coverage Form Aggregate Limit shown in the Declarations:
 - a. The Each Contractor's Pollution Condition Limit shown in the Declarations is the most we will pay under Insuring Agreement **A.1. Contractor's Pollution Liability** for all "loss" arising out of any one "pollution condition".
 - b. The Each Transportation Pollution Condition Limit shown in the Declarations is the most we will pay under Insuring Agreement **A.2. Transportation Pollution Liability** for all "loss" arising out of any one "transportation pollution condition".
 - c. The Each Non-Owned Disposal Site Pollution Condition Limit shown in the Declarations is the most we will pay under Insuring Agreement **A.3. Non-Owned Disposal Site Liability** for all "loss" arising out of any one "pollution condition" at a "non-owned disposal site".
 - d. The Each Sudden And Accidental Pollution Condition Limit shown in the Declarations is the most we will pay under Insuring Agreement **A.4. Sudden And Accidental Discharge, Release, Or Escape Of Pollutants Liability** for all "loss" arising out of any one "pollution condition".
 - e. The Each Crisis Management And Emergency Response Limit shown in the Declarations is the most we will pay under Insuring Agreement **A.5. Crisis Management And Emergency Response Costs** for the sum of all "crisis management costs" and "emergency response costs" arising out of any one "pollution condition".

The limits of insurance of this Policy apply separately to each Policy Period, unless the Policy Period is extended after issuance for an additional period. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the limits of insurance.

B. Self-Insured Retention

The following applies only if Self-Insured Retention is selected in the Declarations:

1. You agree to assume the Self-Insured Retention shown in the Declarations. Our obligation to pay "loss" under this insurance and the applicable Limit Of Insurance shown in the Declarations will apply in excess of the applicable Self-Insured Retention.
2. Regardless of whether or not there is any other insurance, whether or not collectible, applicable to a "claim" or "pollution condition" within the Self-Insured Retention, you must make actual payment of the full Self-Insured Retention before the Limits Of Insurance will apply. Compliance with this clause is a condition precedent for coverage under this insurance. We will make no payments of any type in the event you fail to comply with this clause.
3. You must not incur costs other than adjusting expenses without our written consent in the event of any "claim" or "pollution condition" which appears likely to exceed the Self-Insured Retention.
4. We have the right in all cases to assume control of the investigation, defense, and settlement of any "claim" or "pollution condition" to which this insurance applies. When we exercise this right, the following apply:
 - a. You will remain responsible for the cost of all "loss" within the applicable Self-Insured Retention;
 - b. At our request, you will advance to us any portion of the applicable Self-Insured Retention that we deem reasonable to pay for any "claim" or "pollution condition";
 - c. If you have paid to us all or part of the applicable Self-Insured Retention and the total amount of "loss" that we pay for that "claim" or "pollution condition" is less than the applicable Self-Insured Retention, then we will reimburse you the amount you paid in excess of the amount we pay; and
 - d. We will have the sole and absolute right to settle the "claim" for any amount we deem reasonable, including any amount within the Self-Insured Retention. Although we agree to attempt to advise and consult with you

prior to making any settlement, we will have no obligation to obtain your consent or the consent of any other insured, to any settlement we make that requires payment from you of any amount within the Self-Insured Retention. You and any other insured hereby waive any claim or defense against us resulting from our entering into any such settlement without your approval.

C. Deductible

The following applies only if Deductible is selected in the Declarations:

1. Our obligation to pay "loss" under this insurance and the applicable Limit Of Insurance shown in the Declarations applies only to the amount of damages in excess of the Deductible shown in the Declarations.
2. The Deductible applies separately to each "pollution condition", and may be applied to supplementary payments, settlements, or indemnification.
3. The terms of this insurance, including those with respect to:
 - a. Our right and duty to defend the insured against any "claims" seeking those damages; and
 - b. Your duties in the event of a "pollution condition";apply irrespective of the application of the Deductible.
4. At our sole election and option, we may either:
 - a. Pay any part or all of the Deductible to effect settlement of any "claim", and upon notification of the action taken, you must promptly reimburse us for that part of the Deductible that has been paid by us; or
 - b. Simultaneously upon receipt of notice of any "claim" or at any time thereafter, call upon you to pay or deposit with us all or any part of the Deductible, to be held and applied by us as herein provided.
5. In the event that you do not promptly comply with Paragraph 4. above, any cost we incur in collection of the Deductible including, but not limited to, collection agency fees, attorneys' fees, and interest, will be added to and applied in addition to the Deductible without limitation to such costs.
6. If the same, related, or continuous "pollution condition" results in coverage under more than one Insuring Agreement under this Policy, then only the highest Deductible shown in the Declarations of all Insuring Agreements applicable to the "pollution condition" will apply.

D. Mediation

If we jointly agree with the first Named Insured to utilize "mediation" as a means to resolve a "claim" made against you and such "claim" is resolved as a direct result of and during, or directly after, such "mediation" with the same mediator, the Deductible or Self-Insured Retention shown in the Declarations will be reduced by 50% subject to a maximum reduction of \$25,000 of all "claims" resolved by "mediation". We will reimburse the first Named Insured for any such reimbursable Deductible payments made prior to the "mediation" as soon as practicable after the conclusion of such "mediation".

E. Multiple Insureds, Claims, And Claimants

The inclusion herein of more than one insured in any "claim" or the making of "claims" by more than one person or organization will not operate to increase the Limits Of Insurance shown in the Declarations. More than one "claim" arising out of a single "pollution condition" will be treated as a single "claim".

SECTION V – CONDITIONS

A. Assignment

This insurance may not be assigned without our prior consent, which consent will not be unreasonably withheld or delayed. Assignment of interest under this insurance will not bind us until our consent has been endorsed hereon.

B. Bankruptcy

Bankruptcy or insolvency of the insured or the insured's estate will not relieve us of our obligations or increase our liability under this Policy.

C. Duties In The Event Of A Pollution Condition Or Claim

1. You must see to it that we are notified as soon as practicable in writing of a "pollution condition". To the extent possible, notice must contain:

- a. How, when, and where the "pollution condition" took place;
 - b. The names and addresses of any claimants, injured persons, and witnesses;
 - c. The nature and location of any injury or damage arising out of the "pollution condition";
 - d. The date and details of "your work" that may have caused the "pollution condition";
 - e. Copies of any contracts that have been entered into by any insured that are related to "your work" performed; and
 - f. Details explaining how the insured first became aware of the "pollution condition".
2. If a "claim" is made against any insured:
- a. You must record and notify us as soon as practicable in writing the specifics of the "claim" and the date received; and
 - b. You and any other involved insured must:
 - (1) Send us copies as soon as practicable of any demands, notices, summons, or legal papers received in connection with the "claim";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation, settlement, or defense of the "claim";
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply; and
 - (5) Submit to examination under oath as often as reasonably required by us.
3. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, without our written consent. However, written consent is not required with respect to:
- a. "Crisis management costs" that have been reported in accordance with Insuring Agreement **A.5**. Crisis Management And Emergency Response Costs; or
 - b. "Emergency response costs" that have been reported and approved by us or our appointed representative by use of the emergency response hotline.
4. Notice to your insurance agent or broker does not constitute notice to us for purposes of the receipt of notice.

D. Independent Counsel

In the event the insured is entitled by applicable law to select independent counsel to defend a "claim" or "suit" at our expense, the attorneys' fees and all other expenses we must pay to that counsel are limited to the rates we actually pay to counsel we retain in the ordinary course of business in the defense of similar claims or suits in the community where the "claim" arose or the "suit" is being defended.

Additionally, we may exercise the right to require that such counsel have certain minimum qualifications with respect to their competence including at least 5 years of experience in defending "claims" or "suits" similar to the one pending against the insured and to require such counsel have errors and omissions insurance coverage with a limit at least equal to this Policy's applicable Each Insuring Agreement Limit.

With respect to any such counsel, the insured agrees that counsel will:

1. Respond timely and regularly to our request for information regarding the "claim" or "suit"; and
2. Provide regular status reports, budgets, case plans, and updates on significant developments.

Furthermore, the insured may at any time, by the insured's written consent, freely and fully waive these rights to select independent counsel.

E. Legal Action Against Us

No person or organization has a right under this Policy to:

1. Join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
2. Sue us on this Policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for "losses" that are not payable under the terms of this Policy or that are in excess of the applicable Limit Of Insurance. An agreed settlement means a settlement and release of liability signed by the insured and the claimant or the claimant's legal representative.

F. Other Insurance

If other valid and collectible insurance is available to the insured for "loss" we cover under this Policy, our obligations are limited as follows:

1. Primary Insurance

This insurance is primary except when Paragraph 2. below applies. If this insurance is primary:

- a. This insurance is not contributory with any other insurance available to any third party liability policy if required by a written contract, signed by both parties, and executed prior to the commencement of operations or "your work".
- b. Our obligations are not affected unless any of the other insurance is also primary. In that case, we will share with all such other insurance by the method described in Paragraph 3. below.

2. Excess Insurance

a. This insurance is excess over:

- (1) Any other insurance, whether primary, excess, contingent, or on any other basis, if you are an insured on an insurance policy that applies to "your work" performed at a specific job site and that insurance policy applies to a specific job site;
- (2) Any other insurance, whether primary, excess, contingent, or on any other basis if you are an insured on an insurance policy that applies to "your work" performed at a specific job site and that insurance policy applies to a specific job site;
- (3) Any other valid and collectible insurance available to you covering liability for "losses" arising out of "your work", including that work for which you have been added as an additional insured by an endorsement, by definition in a contract or agreement, or by combination thereof;
- (4) Any other valid and collectible insurance available to any person or entity performing functions for others on your behalf as defined in "your work" in this Policy;
- (5) Any valid and collectible project-specific insurance policy, owner's protective insurance policy, owner-controlled insurance policy, contractor-controlled insurance policy, wrap-up policy, or similar insurance program under which an insured is covered; or
- (6) Any other valid and collectible insurance, whether primary, excess, contingent, or on any other basis, covering a:
 - (a) "Transportation pollution condition", if Insuring Agreement A.2. Transportation Pollution Liability is shown as purchased in the Declarations; or
 - (b) "Pollution condition" on a "non-owned disposal site", if Insuring Agreement A.3. Non-Owned Disposal Site Liability is shown as purchased in the Declarations.

b. When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

c. When this insurance is excess over other insurance, we will pay only our share of the amount of the "loss", if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the damages in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining "loss", if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits Of Insurance shown in the Declarations of this Policy.

3. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the "loss" remains, whichever comes first. However, our contribution will not apply until our applicable Deductible or Self-Insured Retention is satisfied.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

G. Premium Audit

1. We will compute all premiums for this Policy in accordance with our rules, rates, rating plans, and minimum premium requirements.
2. Premium shown as Advance And Deposit Premium in the Declarations is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured shown in the Declarations. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the Policy Period is more than the greater of the earned premium or Minimum Retained Premium shown in the Declarations, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

H. Representations

By accepting this Policy, you agree:

1. The statements in the applications, other materials submitted to us, and Declarations are accurate and complete;
2. Those statements are based upon representations you made to us; and
3. We have issued this Policy in reliance upon your representations.

I. Separation Of Insureds

Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first Named Insured shown in the Declarations, this insurance applies:

1. As if each Named Insured were the only Named Insured; and
2. Separately to each insured against whom a "claim" is made.

J. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The insured must do nothing after "loss" to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

However, we will waive any right of recovery we may have against any person(s) or organization(s) to whom the insured agrees in a written contract signed by both parties prior to the "loss", to provide a waiver of transfer of rights of recovery with respect to "claims" that result from "your work" under such contract(s). This waiver will not apply for "losses" resulting from the sole negligence of such person(s) or organization(s).

SECTION VI – EXTENDED REPORTING PERIOD

With respect only to the Sudden And Accidental Discharge, Release, Or Escape of Pollutants Liability Insuring Agreement:

- A.** We will provide one or more Extended Reporting Periods, as described below, if:
 1. The coverage provided for Sudden And Accidental Discharge, Release, Or Escape Or Pollutants Liability is cancelled or not renewed; or
 2. We renew or replace the coverage provided for Sudden And Accidental Discharge, Release, Or Escape Or Pollutants Liability with insurance that:
 - a.** Has a retroactive date later than the Retroactive Date shown in the Declarations; or

- b. Does not apply to "claims" that result from a "pollution condition" on a claims-made basis.

The quotation of a different premium, deductible, or limit of insurance for renewal does not constitute a cancellation or refusal to renew for the purpose of this provision.

- B. The Extended Reporting Periods do not extend the Policy Period or change the scope of coverage provided. They apply only to "claims" that result from "pollution conditions" that occur before the end of the Policy Period, but not before the Retroactive Date, if any, shown in the Declarations, provided the "claim" is first made against the insured during the Policy Period and reported to us during the Policy Period or the Extended Reporting Period.

Once in effect, the Extended Reporting Period may not be cancelled.

- C. The Extended Reporting Periods will not reinstate or increase the Limits Of Insurance shown in the Declarations.
- D. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the Policy Period and lasts for 90 days.

The Basic Extended Reporting Period does not apply to "claims" that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such "claims".

- E. An Optional Extended Reporting Period is available, subject to Paragraph F. below, but only by an endorsement for an extra charge. This Optional Extended Reporting Period starts when the Basic Extended Reporting Period, set forth in Paragraph D. above, ends.

You must give us a written request for the endorsement within 90 days after the end of the Policy Period. The Optional Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so we may take into account the following:

1. The exposures insured;
2. Previous types and amounts of insurance;
3. Limits of insurance available under this Policy for future payment of "loss"; and
4. Other related factors.

This endorsement will set forth the terms, not inconsistent with this section, applicable to the Optional Extended Reporting Period, including a provision to the effect that the insurance afforded for "claims" first received during such period is excess over any other valid and collectible insurance available under policies in force after the Optional Extended Reporting Period starts.

- F. We do not have to provide an Optional Extended Reporting Period if:
 1. There is any failure to pay any outstanding premiums when due;
 2. You fail to repay any Self-Insured Retention or Deductible amount we have paid;
 3. You have purchased any other insurance to replace the insurance provided under this endorsement; or
 4. The application for this Policy, including any addenda thereto, contains any material misrepresentation of fact.

SECTION VII – DEFINITIONS

- A. "Auto" means a land motor vehicle, trailer, or semitrailer designed for travel on public roads, including any attached machinery or equipment.
- B. "Bodily injury" means physical injury, sickness, disease, mental anguish, or emotional distress, sustained by any person, including medical monitoring or death resulting from any of these at any time.
- C. "Cargo" means waste, products, or materials carried or delivered by a "covered conveyance".
- D. "Carrier" means a person or an entity, other than any insured or any subsidiary or affiliate company of any insured, engaged by the insured to transport material by aircraft, "auto", or watercraft, but only if such person or entity is properly licensed to transport such material and in the business of transporting such material.
- E. "Claim" means the insured's or our receipt of:
 1. A written demand for reimbursement of "loss"; or
 2. The service of "suit" or institution of arbitration proceedings against the insured.

F. "Cleanup costs" means reasonable and necessary expenses incurred in the investigation, evaluation, monitoring, testing, removal, containment, treatment, disposal, remediation, detoxification, or neutralization of "pollutants", or any reasonable and necessary expense incurred in response to any "pollutants":

1. To the extent required by federal, state, local, or provincial laws, including but not limited to statutes, rules, ordinances, guidance documents, regulations, and all amendments thereto, including state voluntary clean up or risk-based corrective action guidance, governing the liability or responsibilities of the insured; or
2. Which have been actually incurred by the government or any political subdivision of the United States of America or any state thereof, or by third parties.

"Cleanup costs" includes "restoration costs".

G. "Completed operations" means "your work" that has been completed. "Completed operations" does not include "your work" that has been abandoned or has not yet been completed. "Your work" will be deemed completed at the earliest of the following times:

1. When all work to be performed under the contract has been completed;
2. When all of the work to be done at the site has been completed if the contract calls for work at more than one site; or
3. When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

"Your work" that may require further service, maintenance, correction, repair, or replacement, but is otherwise complete, will be deemed completed.

H. "Coverage territory" means:

1. The United States of America and its territories and possessions; and
2. International waters or airspace, but only if the "loss" occurs in the course of travel or transportation between any places included in Paragraph 1. above.

"Coverage territory" does not include military bases or installations not located in Paragraph 1. above.

I. "Covered conveyance" means any conveyance operated by or on behalf of an insured used for transporting property.

J. "Covered location" means any real property owned, leased, or operated for use as an office, warehouse, or for equipment storage by you at the time of the "loss" and as of the first date of the Policy Period shown on the Declarations.

K. "Crisis management consultant" means a professional firm or consultant that provides crisis management services and has been approved in writing by us, the approval for which will not be unreasonable withheld.

L. "Crisis management costs" means those reasonable and necessary fees and expenses:

1. Incurred by you within 90 days after the "crisis management event" is discovered by you and is thereafter approved by us in writing; and
2. For services provided to you by a "crisis management consultant" for the sole purpose of assisting you with:
 - a. Managing the media in direct response to a "crisis management event" to which this insurance applies; or
 - b. Minimizing the economic harm to you caused by a "crisis management event" to which this insurance applies by consulting with you with respect to maintaining and restoring your company's public image or reputation.

You must take reasonable steps to minimize "crisis management costs".

M. "Crisis management event" means the public announcement by a third party that a "pollution condition" for which you are legally responsible has caused:

1. "Bodily injury" involving third parties; or
2. "Property damage", but only to the extent resulting in actual physical damage to real property owned by third parties;

provided that one of your "executive officers" has proffered, in our sole discretion, a good faith opinion that the public announcement or accusation has caused or is reasonably likely to cause economic harm to, or a material adverse effect on, your company's image or goodwill.

- N. "Domestic partner" means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state, or local law.
- O. "Emergency response costs" means reasonable and necessary costs incurred to mitigate a "pollution condition" constituting an emergency situation under applicable law whereby in the absence of such mitigation:
1. "Bodily injury" or "property damage" to third parties is imminent; or
 2. "Cleanup costs" pursuant to environmental law are incurred.
- P. "Employee" includes temporary and leased staff working on your behalf and under your direct supervision, but only with respect to "your work".
- Q. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws, or any other similar governing document.
- R. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
1. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate, or dangerous; or
 2. You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by the repair, replacement, adjustment, or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.
- S. "Insured contract" means:
1. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or
 2. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage", or "cleanup costs" to a third person or organization, provided the "bodily injury", "property damage", or "cleanup costs" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph 2. does not include that part of any contract or agreement:
- a. That indemnifies an architect, engineer, or surveyor for injury or damage arising out of:
 - (1) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; or
 - (2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - b. Under which the insured, if an architect, engineer, or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render "professional services", including those listed in a. above and supervisory, inspection, architectural, or engineering activities.
- T. "Loading or unloading" means the handling of property:
1. After it is moved from the place where it is accepted for movement into or onto a vehicle;
 2. While it is in or on a vehicle; or
 3. While it is being moved from a vehicle to the place where it is finally delivered.
- U. "Loss" means:
1. The insured's legal liability for a monetary judgment, award, or settlement, including punitive damages and exemplary damages where insurable by applicable law, for "bodily injury" or "property damage",
 2. "Cleanup costs" with respect to Insuring Agreements A.1. through A.4.; or
 3. "Crisis management costs" or "emergency response costs" with respect to Insuring Agreement A.5.;
- as applicable when shown as purchased in the Declarations.

- V. "Mediation" means non-binding dispute resolution conducted by a neutral third party to effect settlement of a "claim".
- W. "Mold" means any permanent or transient fungus, mold, mildew, or mycotoxin or any of the spores, scents, or by-products produced or released by fungus.
- X. "Natural resource damages" means physical injury to or destruction of, as well as the assessment of such injury or destruction, including the resulting loss of value of land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States of America, any state or local government, any Native American tribe, or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.
- Y. "Non-owned disposal site" means a location you use for the treatment, storage, or disposal of waste or material, provided the "non-owned disposal site":
 1. Is not managed, operated, owned, or leased by any insured or any subsidiary or affiliate of any insured;
 2. Is permitted or licensed by the applicable federal, state, local, or provincial authorities to accept such waste or material as of the date the waste or material is treated, stored, or disposed of at the "non-owned disposal site"; and
 3. Is not listed on a proposed or final Federal National Priorities List or any state or provincial equivalent National Priority List, Superfund, or Hazardous Waste List prior to the treatment, storage, or disposal of the waste or material at the "non-owned disposal site".
- Z. "Pollutants" means any solid, liquid, gaseous, thermal, biological, or low-level radioactive substance, material or matter, irritant, or contaminant including smoke, vapor, soot, silt, sedimentation, fumes, acids, alkalis, chemicals, and waste.

With respect to Insuring Agreements **A.1. Contractor's Pollution Liability** and **A.5 Crisis Management And Emergency Response Costs** only, if shown as purchased in the Declarations, "pollutants" includes "mold" and legionella pneumophila.

AA."Pollution condition" means:

1. The discharge, dispersal, seepage, migration, growth, release, or escape of "pollutants"; or
2. The illicit abandonment of "pollutants" by a third party without your consent at a job site or a "covered location".

With respect to Insuring Agreements **A.2. Transportation Pollution Liability** and **A.5. Crisis Management And Emergency Response Costs** only, if shown as purchased in the Declarations, "pollution condition" includes "transportation pollution condition".

BB."Professional services" means those functions performed for others by you or on your behalf that are related to your practice as a consultant, engineer, architect, surveyor, laboratory, project manager, or construction manager including, but not limited to, engineering services or the preparation or approval of maps, drawings, opinions, reports, surveys, designs, or specifications.

CC."Property damage" means:

1. Physical injury to tangible property, including all resulting loss of use or diminution in value of that property. All such loss of use or diminution in value will be deemed to occur at the time of the physical injury that caused it;
2. Loss of use or diminution in value of tangible property that is not physically injured. All such loss of use or diminution in value will be deemed to occur at the time of the "claim"; or
3. "Natural resource damages".

DD."Responsible insured" means:

1. You, your "executive officer", director, partner, member, or manager;
2. Any insured who has responsibility, in whole or in part, for risk control, risk management, health and safety, or environmental affairs control or compliance; or
3. Any insured who signed or who has responsibility, in whole or in part, for completing the application on which we relied in issuing this Policy.

EE. "Restoration costs" means reasonable and necessary costs incurred by the insured with our consent, which will not be unreasonably withheld or delayed, to restore, repair, or replace real or personal property to substantially the same condition it was in prior to being damaged during work performed in the course of incurring "cleanup costs".

However, such "restoration costs":

1. Will not exceed the actual cash value of such property immediately prior to incurring "cleanup costs"; or
2. Will not include costs associated with improvements or betterments, ordinance, or law, except to the extent:
 - a. Such improvements or betterments of the damaged property entail the use of materials which are environmentally preferable to those materials which comprised the damaged property; and
 - b. Such environmentally preferable material must be certified as such by an applicable independent certifying body, where such certification is available, or, in the absence of such certification, based on our judgment in our sole discretion.

FF. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", or "cleanup costs" to which this insurance applies are alleged. "Suit" includes:

1. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
2. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

GG. "Temporary storage" means storage of materials in a locked and secure storage container with clearly posted warning signs for a period of up to 30 days at a premise you own or rent. "Temporary storage" does not include storage of materials at any site at which you are performing "your work".

HH. "Transportation pollution condition" means the emission, discharge, dispersal, release, or escape of "pollutants" from a "covered conveyance" which occurs beyond the boundaries of a "covered location" or a jobsite.

II. "Transported cargo" means the insured's "cargo" after it is moved from the place where it is accepted by or on behalf of an insured for movement into or onto a "covered conveyance", until the "cargo" is moved from the "covered conveyance" to the place where it is finally delivered on behalf of the insured.

"Transported cargo" also includes the insured's "cargo" during "loading or unloading" to or from a "covered conveyance".

JJ. "Unmanned aircraft" means an aircraft that is not designed, manufactured, or modified after manufacture to be controlled directly by a person from within or on the aircraft.

KK. "Your product":

1. Means:
 - a. Any goods or products, other than real property, manufactured, sold, handled, distributed, or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
 - b. Containers (other than vehicles), materials, parts, or equipment furnished in connection with such goods or products.
2. Includes:
 - a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance, or use of "your product"; and
 - b. The providing of or failure to provide warnings or instructions.
3. Does not include vending machines or other property rented to or located for the use of others but not sold.

LL. "Your work":

1. Means:

- a.** Contracting work or contracting operations as disclosed in the application or which are specifically endorsed to this Policy performed by you or on your behalf for others at a location that you do not own, control, rent, or occupy other than for the purpose of performing "your work"; and
- b.** Materials, parts, or equipment furnished in connection with such work or operations.

2. Includes:

- a.** Warranties or representations made at any time with respect to the fitness, quality, durability, performance, or use of "your work";
- b.** The providing of or failure to provide warnings or instructions;
- c.** The "completed operations" of "your work"; and
- d.** With respect to Insuring Agreement **A.1. Contractor's Pollution Liability**, the "temporary storage" of asbestos, or any material or substance containing asbestos, asbestos fibers, or asbestiform talc that was removed in the course of "your work".



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following, where indicated by an "X" in the checkbox(s) below:

- COMMERCIAL GENERAL LIABILITY COVERAGE FORM
- CONTRACTOR'S POLLUTION LIABILITY COVERAGE FORM
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM
- PROFESSIONAL LIABILITY COVERAGE FORM
- SITE POLLUTION AND ENVIRONMENTAL COVERAGE FORM

SCHEDULE

Person Or Organization: City of Monterey Park, its officers, officials, employees, volunteers

Address: 320 W. Newmark Avenue, Monterey Park, CA 91754

Number Of Days Advance Notice: 30

If we cancel this policy, we will mail to the Person Or Organization shown in the Schedule of this endorsement advance written notice of cancellation at the Address shown in the Schedule of this endorsement. Such notice will be sent no less than the Number Of Days Advance Notice shown in the Schedule of this endorsement prior to the effective date of cancellation.

All other terms and conditions remain unchanged.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2% of the California workers' compensation premium otherwise due on such remuneration.

Person or Organization	SCHEDULE	Job Description
Blanket Waiver: Any person or organization for whom the insured, has agreed by written contract, to furnish this waiver.		

This endorsement changes the policy to which it is attached and, unless otherwise stated, is effective on the date issued at 12:01 A.M. standard time at your mailing address shown in the policy. **The information below is required only when this endorsement is issued subsequent to commencement of the policy.**

Endorsement Effective August, 1 2023

Policy No. 23H WS 05450

Insured Ware Disposal, Inc.

Endorsement No. 5

Countersigned By Wayne Bryan

Hub International Insurance Services/
Sacramento CA

ENDORSEMENT #011

This endorsement, effective 12:01 a.m., February 28, 2024 forms a part of Policy No. AEC004538609 issued to WARE DISPOSAL, INC. by Greenwich Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMATIC ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
AUTO DEALERS COVERAGE FORM

A. **COVERED AUTOS LIABILITY COVERAGE, Who Is An Insured**, is amended to include as an "insured" any person or organization you are required in a written contract to name as an additional insured, but only for "bodily injury" or "property damage" otherwise covered under this policy caused, in whole or in part, by the negligent acts or omissions of:

1. You, while using a covered "auto"; or
2. Any other person, except the additional insured or any employee or agent of the additional insured, operating a covered "auto" with your permission;

Provided that:

- a. The written contract is in effect during the policy period of this policy;
- b. The written contract was signed by you and executed prior to the "accident" causing "bodily injury" or "property damage" for which liability coverage is sought; and
- c. Such person or organization is an "insured" solely to the extent required by the contract, but in no event if such person or organization is solely negligent.

B. The Limits of Insurance provided for the Additional Insured shall not be greater than those required by contract and, in no event shall the Limits of Insurance set forth in this policy be increased by the contract.

C. **General Conditions, Other Insurance** is amended as follows:

Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether such insurance is primary, excess, contingent or on any other basis unless the contract specifically requires that this policy be primary.

All terms, conditions, exclusions and limitations of this policy shall apply to the liability coverage provided to any additional insured, and in no event shall such coverage be enlarged or expanded by reason of the contract.

All other terms and conditions of this policy remain unchanged.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., 02/28/2024, forms a part of

Policy No. GEC3000730-09 issued to Ware Disposal, Inc.

by Greenwich Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY INSURANCE CLAUSE ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS COVERAGE PART

It is agreed that to the extent that insurance is afforded to any Additional Insured under this policy, this insurance shall apply as primary and not contributing with any insurance carried by such Additional Insured, as required by written contract.

All other terms and conditions of this policy remain unchanged.

AM Best Rating Services

Greenwich Insurance Company

BestLink  AMB #: 011095 NAIC #: 22322 FEIN #: 951479095

Administrative Office

Seaview House 70 Seaview Avenue
Stamford, Connecticut 06902

[United States](#)

Web: www.axaxl.com

Phone: 203-964-5200

Fax: 203-964-3444

[View Additional Address Information](#)

AM Best Rating Unit: [AMB #: 085085 - AXA S.A.](#)

Assigned to insurance companies that have, in our opinion, a superior ability to meet their ongoing insurance obligations.



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Based on AM Best's analysis, [074976 - AXA S.A.](#) is the **AMB Ultimate Parent** and identifies the topmost entity of the corporate structure. View a list of [operating insurance entities](#) in this structure.

Best's Credit Ratings

Financial Strength View Definition

Rating (Rating Category):	A+ (Superior)
Affiliation Code:	g (Group)
Outlook (or Implication):	Stable
Action:	Affirmed
Effective Date:	September 07, 2023
Initial Rating Date:	June 30, 1991

Best's Credit Rating Analyst

Rating Office: A.M. Best Rating Services, Inc.
Associate Director-Analytics: Dan Hofmeister, CFA, FRM, CAIA, CPCU, ARe, AIS, AIAF
Director: Gregory Dickerson
Note: See the Disclosure information Form or Press Release below for the office and analyst at the time of the rating event.

Long-Term Issuer Credit View Definition

Rating (Rating Category):	aa- (Superior)
Outlook (or Implication):	Stable
Action:	Affirmed
Effective Date:	September 07, 2023
Initial Rating Date:	April 11, 2005

Note: Credit Ratings on this company are [European Union Endorsed](#) and [United Kingdom Endorsed](#)

Disclosure Information

Disclosure Information Form

View AM Best's [Rating Disclosure Form](#)

Press Release

[AM Best Affirms Credit Ratings of AXA S.A.](#)
September 07, 2023

View AM Best's [Rating Review Form](#)

Financial Size Category View Definition

Financial Size Category: XV (Greater than or Equal to USD 2.00 Billion)

u Denotes [Under Review Best's Rating](#)

Rating History

AM Best has provided ratings & analysis on this company since 1991.

Financial Strength Rating

Effective Date	Rating
September 07, 2023	A+
November 09, 2022	A+
September 17, 2021	A+
September 29, 2020	A+
December 12, 2019	A+
December 06, 2018	A+

Long-Term Issuer Credit Rating

Effective Date	Rating
September 07, 2023	aa-
November 09, 2022	aa-
September 17, 2021	aa-
September 29, 2020	aa-
December 12, 2019	aa-
December 06, 2018	aa-

Best's Credit & Financial Reports



[Best's Credit Report](#) - financial data included in Best's Credit Report reflects the data used in determining the current credit rating(s) for AM Best Rating Unit: AMB #: [085085 - AXA S.A.](#)



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Press Releases

Date	Title
Sep 07, 2023	AM Best Affirms Credit Ratings of AXA S.A.
Nov 09, 2022	AM Best Affirms Credit Ratings of XL Bermuda Ltd and Its Subsidiaries
Sep 17, 2021	AM Best Affirms Credit Ratings of XL Bermuda Ltd and Its Subsidiaries
Sep 29, 2020	AM Best Affirms Credit Ratings of XL Bermuda Ltd and Its Main Property/Casualty Subsidiaries
Dec 12, 2019	AM Best Affirms Credit Ratings of XL Bermuda Ltd and Its Main P/C Subs; Withdraws Credit Ratings of XLIT Ltd. and XL Group Ltd
Dec 06, 2018	AM Best Removes from Under Review, Upgrades Credit Ratings of XL Group Ltd, Its Main Property/Casualty Subsidiaries and XLIT Ltd
Mar 06, 2018	A.M. Best Places Credit Ratings of XL Group Ltd and Its Subsidiaries Under Review With Developing Implications

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AM Best Rating Services

Westchester Surplus Lines Insurance Company



AMB #: 004433 NAIC #: 10172 FEIN #: 582139927

Mailing Address

P.O. Box 1000
Philadelphia, Pennsylvania 19106

[United States](#)

Web: www.chubb.com

Phone: 215-640-1000

[View Additional Address Information](#)

AM Best Rating Unit: [AMB #: 000012 - Chubb U.S. Group of Insurance Companies](#)

Assigned to insurance companies that have, in our opinion, a superior ability to meet their ongoing insurance obligations.



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Based on AM Best's analysis, [058303 - Chubb Limited](#) is the **AMB Ultimate Parent** and identifies the topmost entity of the corporate structure. View a list of [operating insurance entities](#) in this structure.

Best's Credit Ratings

Financial Strength View Definition

Rating (Rating Category):	A++ (Superior)
Affiliation Code:	g (Group)
Outlook (or Implication):	Stable
Action:	Affirmed
Effective Date:	December 07, 2023
Initial Rating Date:	June 30, 1972

Best's Credit Rating Analyst

Rating Office: A.M. Best Rating Services, Inc.
Director: Alan Murray
Senior Director: Michael J. Lagomarsino, CFA, FRM
Note: See the Disclosure information Form or Press Release below for the office and analyst at the time of the rating event.

Long-Term Issuer Credit View Definition

Rating (Rating Category):	aa+ (Superior)
Outlook (or Implication):	Stable
Action:	Affirmed
Effective Date:	December 07, 2023
Initial Rating Date:	August 16, 2005

Disclosure Information

Disclosure Information Form

View AM Best's [Rating Disclosure Form](#)

Press Release

[AM Best Affirms Credit Ratings of Chubb Limited and Its Subsidiaries](#)
December 07, 2023

Financial Size Category View Definition

Financial Size Category: XV (Greater than or Equal to USD 2.00 Billion)

u Denotes [Under Review Best's Rating](#)

Rating History

AM Best has provided ratings & analysis on this company since 1972.

Financial Strength Rating

Effective Date	Rating
December 07, 2023	A++
December 01, 2022	A++
December 10, 2021	A++
December 17, 2020	A++
December 11, 2019	A++
December 13, 2018	A++

Long-Term Issuer Credit Rating

Effective Date	Rating
December 07, 2023	aa+
December 01, 2022	aa+
December 10, 2021	aa+
December 17, 2020	aa+
December 11, 2019	aa+
December 13, 2018	aa+

Best's Credit & Financial Reports



[Best's Credit Report](#) - financial data included in Best's Credit Report reflects the data used in determining the current credit rating(s) for AM Best Rating Unit: AMB #: [000012 - Chubb U.S. Group of Insurance Companies](#).



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Press Releases

<u>Date</u>	<u>Title</u>
Dec 07, 2023	AM Best Affirms Credit Ratings of Chubb Limited and Its Subsidiaries
Dec 01, 2022	AM Best Affirms Credit Ratings of Chubb Limited and Its Subsidiaries
Dec 10, 2021	AM Best Affirms Credit Ratings of Chubb Limited and Its Subsidiaries
Dec 17, 2020	AM Best Affirms Credit Ratings of Chubb Limited and Its Subsidiaries
Dec 11, 2019	AM Best Affirms Credit Ratings of Chubb Limited and Its Subsidiaries
Dec 13, 2018	AM Best Affirms Credit Ratings of Chubb Limited and Its Subsidiaries
Oct 05, 2017	A.M. Best Affirms Credit Ratings of Chubb Limited and Its Subsidiaries
Jun 22, 2016	A.M. Best Removes From Under Review and Affirms Ratings of Chubb Limited and Most of Its Subsidiaries

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AM Best Rating Services

Alaska National Insurance Company



AMB #: 002648 NAIC #: 38733 FEIN #: 920077654

Domiciliary Address

7001 Jewel Lake Road
Anchorage, Alaska 99502-2800

[United States](#)

Web: www.alaskanational.com

Phone: 907-248-2642

AM Best Rating Unit: [AMB #: 018724 - CopperPoint Insurance Group](#)

Assigned to insurance companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations.



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Based on AM Best's analysis, [044179 - CopperPoint Mutual Insurance Holding Co](#) is the AMB Ultimate Parent and identifies the topmost entity of the corporate structure. View a list of [operating insurance entities](#) in this structure.

Best's Credit Ratings

Financial Strength View Definition

Rating (Rating Category):	A (Excellent)
Affiliation Code:	g (Group)
Outlook (or Implication):	Stable
Action:	Affirmed
Effective Date:	January 30, 2024
Initial Rating Date:	June 30, 1987

Long-Term Issuer Credit View Definition

Rating (Rating Category):	a (Excellent)
Outlook (or Implication):	Stable
Action:	Affirmed
Effective Date:	January 30, 2024
Initial Rating Date:	June 18, 2007

Financial Size Category View Definition

Financial Size Category: XIV (USD 1.50 Billion to Less than 2.00 Billion)

Best's Credit Rating Analyst

Rating Office: A.M. Best Rating Services, Inc.
Senior Financial Analyst: Michael T. Venezia
Director: Erik Miller
Note: See the Disclosure information Form or Press Release below for the office and analyst at the time of the rating event.

Disclosure Information

Disclosure Information Form
View AM Best's [Rating Disclosure Form](#)

u Denotes [Under Review Best's Rating](#)

Rating History

AM Best has provided ratings & analysis on this company since 1987.

Financial Strength Rating

Effective Date	Rating
January 30, 2024	A
January 27, 2023	A
January 27, 2022	A
December 23, 2020	A
December 17, 2019	A
September 18, 2019	A u

Long-Term Issuer Credit Rating

Effective Date	Rating
January 30, 2024	a
January 27, 2023	a
January 27, 2022	a
December 23, 2020	a+
December 17, 2019	a+
September 18, 2019	a+ u

Best's Credit & Financial Reports



[Best's Credit Report](#) - financial data included in Best's Credit Report reflects the data used in determining the current credit rating(s) for AM Best Rating Unit: AMB #: [018724 - CopperPoint Insurance Group](#).



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Press Releases

<u>Date</u>	<u>Title</u>
Jan 27, 2022	AM Best Affirms Credit Ratings of CopperPoint Insurance Group Main Subsidiaries
Dec 17, 2019	AM Best Removes from Under Review With Positive Implications and Upgrades Credit Ratings of CopperPoint Insurance Group Members
Sep 18, 2019	AM Best Places Credit Ratings of Alaska National Insurance Company Under Review With Developing Implications
Oct 08, 2012	A.M. Best Upgrades Issuer Credit Rating of Alaska National Insurance Company

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AM Best Rating Services

Evanston Insurance Company

BestLink  AMB #: 003759 NAIC #: 35378 FEIN #: 362950161

Domiciliary Address

10275 W. Higgins Road Suite 750
Rosemond, Illinois 60018

[United States](#)

Web: www.markelcorp.com

Phone: 847-572-6000

Fax: 847-572-6389

AM Best Rating Unit: [AMB #: 003191 - Markel North America Insurance Group](#)

Assigned to insurance companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations.



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Based on AM Best's analysis, [058405 - Markel Group Inc.](#) is the **AMB Ultimate Parent** and identifies the topmost entity of the corporate structure. View a list of [operating insurance entities](#) in this structure.

Best's Credit Ratings

Financial Strength View Definition

Rating (Rating Category):	A (Excellent)
Affiliation Code:	g (Group)
Outlook (or Implication):	Stable
Action:	Affirmed
Effective Date:	October 27, 2023
Initial Rating Date:	June 30, 1983

Best's Credit Rating Analyst

Rating Office: A.M. Best Rating Services, Inc.
Senior Financial Analyst: Robert Valenta, CPCU
Director: Alan Murray
Note: See the Disclosure information Form or Press Release below for the office and analyst at the time of the rating event.

Long-Term Issuer Credit View Definition

Rating (Rating Category):	a+ (Excellent)
Outlook (or Implication):	Stable
Action:	Affirmed
Effective Date:	October 27, 2023
Initial Rating Date:	June 29, 2005

Disclosure Information

Disclosure Information Form

View AM Best's [Rating Disclosure Form](#)

Press Release

[AM Best Affirms Credit Ratings of Markel Group Inc. and Its Subsidiaries](#)
October 27, 2023

Financial Size Category View Definition

Financial Size Category: XV (Greater than or Equal to USD 2.00 Billion)

u Denotes [Under Review Best's Rating](#)

Rating History

AM Best has provided ratings & analysis on this company since 1983.

Financial Strength Rating

Effective Date	Rating
October 27, 2023	A
September 30, 2022	A
September 15, 2021	A
September 11, 2020	A
December 13, 2019	A
December 19, 2018	A

Long-Term Issuer Credit Rating

Effective Date	Rating
October 27, 2023	a+
September 30, 2022	a+
September 15, 2021	a+
September 11, 2020	a+
December 13, 2019	a+
December 19, 2018	a+

Best's Credit & Financial Reports



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<u>Date</u>	<u>Title</u>
Oct 27, 2023	AM Best Affirms Credit Ratings of Markel Group Inc. and Its Subsidiaries
Sep 30, 2022	AM Best Affirms Credit Ratings of Markel Corporation and its Subsidiaries
Sep 15, 2021	AM Best Affirms Credit Ratings of Markel Corporation and its Subsidiaries
Sep 11, 2020	AM Best Affirms Credit Ratings of Markel Corporation and Most Subsidiaries; Upgrades Issuer Credit Rating of Markel Bermuda Ltd
Dec 13, 2019	AM Best Affirms Credit Ratings of Markel Corporation and Most Subsidiaries
Dec 19, 2018	AM Best Affirms Credit Ratings of Markel Corporation and Most Subsidiaries
Dec 20, 2017	A.M. Best Affirms Credit Ratings of Markel Corporation and Most Subsidiaries

Page size: 10 25 items in 3 pages

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