

**FRANCHISE AGREEMENT**

*between the*

**TOWN OF LOS ALTOS HILLS**

*and*

**GREENWASTE RECOVERY, INC.**

*for*

**COLLECTION OF GARBAGE,  
RECYCLABLE AND COMPOSTABLE  
MATERIALS**

May, 2008

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**Franchise Agreement**  
**between the**  
**Town of Los Altos Hills and GreenWaste Recovery, Inc.**  
**for**  
**Collection of Garbage, Recyclable and Compostable Materials**

This Garbage, Recyclable and Compostable Materials Collection Franchise Agreement (“Agreement”) is made and entered into this 22<sup>nd</sup> day of May, 2008 by and between the Town of Los Altos Hills, a general law city of the State of California (“Town”) and GreenWaste Recovery, Inc., a California corporation (“Franchisee”).

**RECITALS**

A. The effective and orderly handling of Garbage is an essential component of public safety and health. Balanced regional Waste Management and planning must be maintained and developed so as to safeguard public health, optimize the use of limited natural resources and insure the efficient and orderly collection and processing of Recyclable and Compostable Materials and proper disposal of Garbage.

B. It is desirable that the public recognize its ultimate responsibility to reduce, recycle and dispose of all wastes in an environmentally sound manner and that collection and disposal rates must be established at levels which are commensurate with the cost of carrying out that responsibility.

C. Pursuant to powers expressly granted to cities and counties in Article XI, Section 7 of the California Constitution, and also set forth in California Public Resource Code Sections 40059 and 49300, Town has the authority within its jurisdiction to regulate the handling of Garbage. Town accordingly enters into this Agreement pursuant to the above authority and pursuant to Town Municipal Code, Chapter 3, Title VI.

D. The parties have met and agreed to modify various provisions of the current Agreement and now desire to enter into this new Agreement to incorporate such modifications into this Agreement. As of the date first written above, this Agreement shall supersede and replace in its entirety the current Agreement.

## AGREEMENT

In consideration of the mutual covenants, agreements and conditions contained herein, the parties agree as follows:

### ARTICLE 1 DEFINITIONS

The definitions set forth in this Article 1 shall govern the interpretation of this Agreement.

- 1.1. Agreement - "Agreement" shall mean this Franchise Agreement Between the Town of Los Altos Hills and GreenWaste Recovery, Inc., for Collection of Garbage, Recyclable and Compostable Materials.
- 1.2. Bin-by-the-Day Service - "Bin-by-the-Day Service" means container service between one (1) and eight (8) cubic yards, for a period not to exceed seven (7) days, for the collection of Garbage, Recyclable and Compostable Materials. Bin-by-the-Day Services would be used by Service Recipients to dispose of Bulky Goods and oversized Compostable Materials that would not fit into a Recyclable Materials Container as a Compostable Materials Container. For billing and compensation purposes, all Bin-by-the-Day Services are classified as Extra Services under this Agreement.
- 1.3. Bulky Goods - "Bulky Goods" means discarded furniture; carpets; mattresses; household appliances including refrigerators, ranges, washers, dryers, water heaters, and dishwashers and other similar items (commonly known as "white goods"); or other items too large to fit in a 96-gallon wheeled cart or standard garbage can; electronic equipment such as stereos, televisions, computers, VCRs and other similar items (commonly known as "brown goods"); and tires. Bulky Goods does not include any motor vehicle or any subassembly, component, or part thereof (except tires), and does not include Hazardous Material.
- 1.4. Compostable Materials - "Compostable Materials" means organic materials generated from tree trimming, shrubbery pruning, vegetative garden wastes, dead plants, weeds, leaves, grass clippings, food and non-food vegetative matter, that decompose biologically.
- 1.5. Compostable Materials Collection - "Compostable Materials Collection" means the collection of Compostable Materials from Service Recipients as set forth in Section 5.5.
- 1.6. Compostable Materials Containers - "Compostable Materials Containers" means rigid containers provided by the Service Recipient, the combined weight of the container and the Compostable Materials shall not exceed 60 pounds; OR Wheeled carts provided by the Franchisee for collection of Compostable Materials.
- 1.7. Composting - "Composting" means the controlled decomposition of organic materials.
- 1.8. Construction and Demolition Debris - "Construction and Demolition Debris" includes debris and other materials resulting from the construction or demolition of buildings and other structures; and concrete, asphalt, rock and dirt.

- 1.9. Debris Box Service - "Debris Box Service" means container service in excess of eight (8) cubic yards, for the collection of Garbage, Recyclable and Compostable Materials. Debris Box Services would generally be used by Service Recipients to dispose of Bulky Goods and oversized Compostable Materials that would not fit into a normal Garbage, Recyclable and Compostable Materials Containers. For billing and compensation purposes, all Debris Box Services are classified as Extra Services under this Agreement.
- 1.10. Designated Disposal Site - "Designated Disposal Site" means the Newby Island Landfill, to which Franchisee is directed by Town to transport all residue to be disposed from materials collected under this Agreement.
- 1.11. Excess Service - "Excess Service" means services described in Section 5.3.2, which are requested by the Service Recipient above the normal services, and which are provided at additional charge to the Service Recipient. Excess Service includes service to collect excess Garbage, Recyclable and Compostable Materials on the normal day of collection.
- 1.12. Extra Service - "Extra Service" means services described in Sections 5.3.3, 5.7.2, and 5.9, which are requested by the Service Recipient above the normal services, and which are provided at additional charge to the Service Recipient. Extra Service includes service to collect Garbage on a day other than the normal day of service, or collection of Garbage, Recyclable Materials or Compostable Materials in Debris Boxes or Bin-by-the-Day Service.
- 1.13. Force Majeure - "Force Majeure" means acts of God, fire, landslides, storms, floods, earthquakes, epidemics, civil disturbances, strikes, lockouts or other industrial disturbances, acts of the public enemy, war, blockades, public riots, accidents to equipment that are not the fault of Franchisee through lack of maintenance, negligence or otherwise, governmental restraint, unavailability of a disposal site, and any other event which could not with reasonable diligence be controlled or prevented by the party affected by the event.
- 1.14. Franchise Area - "Franchise Area" means the entire area within the city limits of Town at the time of execution of the Agreement, and any areas that may be annexed to Town during the term of this Agreement.
- 1.15. Franchisee - "Franchisee" means GreenWaste Recovery, Inc.
- 1.16. Garbage - "Garbage" means putrescible wastes including kitchen and table food wastes; animal or vegetable wastes resulting from storage, preparation, cooking, processing, or handling of food or food stuffs; non-putrescible wastes that are mixed in the same container with or are contaminated by putrescible wastes; infectious wastes, such as used tissues, which are normally produced at residential premises; small dead animals not exceeding ten (10) pounds in weight; and any putrefactive or easily decomposable waste material which is likely to attract flies, vermin, birds or rodents. Garbage does not include materials that are separated and set aside for recycling, and does not include stable matter (manure and other waste matter normally accumulated in stables or in livestock or poultry enclosures), Hazardous Materials, or Special Wastes.
- 1.17. Garbage Containers - "Residential Garbage Containers" means metal or plastic containers of not more than 33-gallon capacity, and plastic bags of not more than 30-gallon capacity and at least 0.8 mil thickness; OR wheeled carts provided by Franchisee for collection of Garbage. Franchisee shall not be required to collect Garbage from an approved Garbage Container where the total weight of the container and contents exceed 60 pounds in metal or plastic cans, or 40 pounds in plastic bags, or the

volume exceeds the capacity of the Garbage Container when it is closed; except for Franchisee provided wheeled carts, where the allowable weight is printed on the cart.

"Non-Residential Garbage Containers" means metal or plastic bins of from 1 to 8 cubic yard capacity, provided by Franchisee for use by Non-Residential Service Recipients for garbage collection services under this Agreement.

- 1.18. Hazardous Material - "Hazardous Material" means any material or combination of materials which because of its quantity, concentration, or physical, chemical or infectious characteristics may either: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of or otherwise managed. Hazardous Material includes, but is not limited to, hazardous wastes as defined under California or United States law or any regulations promulgated pursuant to such law, as such law or regulations may from time to time be amended.
- 1.19. Holidays - "Holidays" shall mean January 1, Thanksgiving Day, and December 25.
- 1.20. Non-Collection Notice - "Non-Collection Notice" means a two-part form used to notify a Service Recipient of the reasons for the non-collection of Garbage, Recyclable and Compostable Materials set out by the Service Recipient for collection by Franchisee pursuant to this Agreement.
- 1.21. Non-Residential Service Recipient - "Non-Residential Service Recipient" means a business, school, church or other commercial enterprise, which subscribes for service by Franchisee. Non-Residential Service Recipients generating less than 96-gallons (up to three cans) of Garbage and Compostable Materials per week may subscribe for service as Residential Service Recipients.
- 1.22. Notice of Improper Setout - "Notice of Improper Setout" means a two-part form used to notify Service Recipient(s) that Garbage, Recyclable and Compostable Materials have not been properly prepared, and to notify Service Recipient(s) how to properly prepare materials for collection by Franchisee pursuant to this Agreement as mutually agreed to by Town Manager and Franchisee.
- 1.23. Payment for Extra Services - "Payment for Extra Services" means remuneration to Franchisee for services provided pursuant to Sections 5.3.3, 5.7.2, and 5.9.
- 1.24. Recyclable Materials - "Recyclable Materials" means those materials designated in EXHIBIT A of this Agreement; which are separated by the Service Recipient from other discards for the purpose of returning them to economic use, and set out for collection in a Recyclable Materials Container.
- 1.25. Recyclable Materials Containers - "Recyclable Materials Containers" means the wheeled carts provided to Service Recipients by the Franchisee for the collection of Recyclable Materials, and any additional durable container approved for such purpose by Town which is provided by a Service Recipient for collection of Recyclable Materials and is clearly labeled as a recycling container.
- 1.26. Residential Service Recipient - "Residential Service Recipient" means all residences; and may also mean business which generate less than 96-gallons (or not more than three 32-gallon cans) of Garbage and Compostable Materials per week.

- 1.27. Service Rates - "Service Rates" means the rates charged to a Service Recipient for services provided by Franchisee pursuant to this Agreement. Service Rates shall be set by the City Council. Service Rates in effect at the beginning of this Agreement are provided in EXHIBIT B.
- 1.28. Service Recipient - "Service Recipient" means any residence or business located in Town which subscribes to collection services by Franchisee pursuant to Article 4 of this Agreement.
- 1.29. Town - "Town" means the Town of Los Altos Hills.
- 1.30. Town Representative - "Town Representative" means the City Manager, or such Town employee as the City Manager may designate.
- 1.31. Walk-up Service - "Walk Up Service" means service provided to residential Service Recipients wherein Franchisee's drivers will walk up to the residence, roll out collection containers for Garbage, Recyclable and Compostable Materials, dump the contents of the containers into the truck, and return the collection containers to the residence.
- 1.32. Working Day - "Working Day" means Monday through Saturday.

## **ARTICLE 2 TERM OF AGREEMENT**

- 2.1 Term - The term of this Agreement shall be from July 1, 2008 to June 30, 2016, inclusive, subject to Article 16 of this Agreement. Collection services shall commence on October 1, 2008.
- 2.2 Option to Extend Term – Franchisee shall have the option to request an extension of this Agreement for one three-year period. On or before December 31, 2014, Franchisee shall provide Town written notice of its desire to extend or not extend the Term of this Agreement. Town, at its sole discretion, may choose to extend or not extend the Term of this Agreement, and shall notify Franchisee of its intent within 60 days of notice from Franchisee.

## **ARTICLE 3 EXCLUSIVE PRIVILEGE**

- 3.1 Grant of Exclusive Franchise to Franchisee - Pursuant to California Public Resources Code Section 40059 and 49300, Town hereby grants to Franchisee the exclusive franchise to perform the Residential, Non-residential and Debris Box collection services described in Article 5 for the term of this Agreement.
  - A. Collect and transport to the Designated Disposal Site and/or process for recycling and composting all Garbage generated in the Franchise Area, subject to the conditions, restrictions and covenants of this Agreement.
  - B. Collect and transport for processing all Recyclable Materials generated in the Franchise Area, subject to the conditions, restrictions and covenants of this Agreement.
  - C. Collect and transport for processing all Compostable Materials generated in the Franchise Area, subject to the conditions, restrictions and covenants of this Agreement.

3.2 Exceptions - The exclusive franchise granted to Franchisee to perform collection services does not extend to any of the following, and Town expressly reserves the right to allow other service providers, by contract or otherwise, to perform any or all of the following in Town:

- A. Collection and processing of any recyclable materials not specifically included in the definition of Recyclable Materials, which have value equal to or more than the cost of collection, including scrap wood, individual pieces of scrap metal weighing more than 40 pounds, and other Recyclable Materials.
- B. Collection of grease wastes from grease traps or grease interceptors.
- C. Collection of horse manure from residences or non-residential properties.
- D. Collection of hazardous wastes.
- E. Collection of non-hazardous waste material that is greater than fifty percent (50%) liquid (including septic tank pumpings, and other liquid wastes).

3.3 Recycling Options of Service Recipients - Nothing in this Agreement shall be construed as requiring Service Recipients to set out Recyclable Materials or Bulky Goods for collection by Franchisee. Service Recipients may dispose of Recyclable Materials and Bulky Goods through other appropriate means including, but not limited to, taking Recyclable Materials or Bulky Goods to drop-off facilities, and donating or selling Recyclable Materials or Bulky Goods to private or public entities.

3.4 Commingling of Garbage, Recyclable and Compostable Materials.

3.4.1 Commingling of Town Garbage with Recyclable Materials and Compostable Materials - Franchisee shall not commingle, in the collection vehicles or at the processing facility or otherwise, any Garbage collected pursuant to this Agreement with any Recyclable Materials separated for collection by the resident pursuant to this Agreement, unless specifically approved in advance in writing by the City Manager.

3.4.2 Commingling of Non-Town Recyclable and Compostable Materials - Franchisee may commingle, in the collection vehicles, Garbage, Recyclable Materials or Compostable Materials collected pursuant to this Agreement with any materials collected by Franchisee from any place outside Town, only if Franchisee can continue to provide, accurate and complete data, and audited records of the types and amounts of Recyclable and Compostable Materials collected from within and outside Town.

3.5 Use of Recycled Products - Franchisee is requested to use, wherever feasible in the performance of services under this Agreement, products or materials which contain recycled materials content. Franchisee is requested to report their use of recycled content products to Town.

#### **ARTICLE 4 TRANSITION SERVICES**

4.1 Initial Determination of Service Recipients - Contractor shall develop a listing of Potential Service Recipients, each residence and business in Town, prior to August 1, 2008. Contractor shall contact each potential Service Recipient prior to October 1, 2008, to determine the level of collection services desired by Service Recipients. Beginning October 1, 2008, Contractor shall provide collection services to all Service Recipients who subscribe for these services.

4.2 Distribution of Containers - Distribution of Residential Recycling Containers and Non-Residential Garbage, Recyclable and Compostable Materials collection containers shall be completed by October 1, 2008.

- 4.3 Notification of Customers - Franchisee shall notify customers of new services being offered; cart sizes; other changes; new phone; with the distribution of the new Residential Recycling Containers.
- 4.4 Participation in Public Education and Outreach Program - Franchisee shall participate in all of the activities designated in the Public Education and Outreach Plan attached as EXHIBIT C.
- 4.5 Collection Services – For the month of October, 2008, Franchisee shall staff customer service telephones from 8:00 AM TO 8:00 PM, and collect all missed pick-ups on the day on which they are notified, if they are notified during normal working hours.

## **ARTICLE 5 COLLECTION SERVICES**

### 5.1 General Provisions

5.1.1. Beginning October 1, 2008 and continuing through the end of the term of this Agreement, Franchisee shall perform collection services as provided in this Article 5. All such services shall be performed in a thorough and professional manner regardless of weather conditions and difficulty of collection. All collection services shall occur only between the hours of 8:00 AM and 6:00 PM, unless specifically approved in advance in writing by the City Manager.

5.1.2. All Garbage, Recyclable and Compostable Materials collected pursuant to this Agreement shall be and become the property of the Franchisee at the time these materials are placed in Franchisee's collection containers or vehicle.

5.1.3 Franchisee shall, provide Walk-Up Service to collect Garbage, Recyclable and Compostable Materials adjacent to the home of all residents who request this service. Franchisee will provide Walk-Up Service where the service trucks are too large to fit in the driveways or access roads to the address of the Service Recipients. Franchisee shall not charge distance charges to Service Recipients because Franchisee's trucks can not service areas that received service in January 2008. If questions arise, Service Rates shall be based on distance charges in effect for that Service Recipient in January 2008.

5.1.4 Non-Collection Notices for Garbage, Recyclable and Compostable Materials shall indicate the date and time the notice was prepared, the driver's initials, the complete address of the premises, the reason why the collection was not made, and the manner in which materials should be prepared for future collection. Franchisee shall leave a card stock copy at the premises by affixing it to the container holding the materials not being collected, and shall retain one copy. The form of this notice will be mutually agreed to by City Manager and Franchisee.

5.1.5 Except when material is being loaded or unloaded, or when the vehicle is on route in the process of collection, Franchisee shall at all times keep Garbage, Recyclable and Compostable Materials loads completely covered so as to prevent litter, leakage or spillage from the collection vehicle. Franchisee shall immediately clean up any litter, leakage or spillage which occurs during collection and transport. In addition to the Adjustments for Damages specified in Section 13.4 of this Agreement, Franchisee shall reimburse Town for all costs incurred by Town in the cleanup of all litter created by Franchisee in the performance of this Agreement and not cleaned up by Franchisee.

5.1.6 In the event that the provision of services to any Service Recipient would require Franchisee to operate its equipment on private roads which Franchisee reasonably believes present an unsafe condition for such operation, Franchisee shall give written notice to Town. Franchisee shall continue to collect Garbage, Recyclable and Compostable Materials from that Service Recipient.

5.2. Holiday Service - Franchisee shall not be required to perform any services under this Agreement on Holidays. Collection services that would be performed under this Article 5, were it not for the Holiday, shall be rescheduled one day later (to the next Working Day) for the remainder of the week following the Holiday, unless otherwise specifically approved in advance in writing by the City Manager. Franchisee shall provide written notice of the rescheduling of any other services affected by Holiday to each affected Service Recipient at least thirty (30) days in advance of the rescheduled service.

5.3. Residential Garbage Collection.

5.3.1. Provision of Garbage Containers - Franchisee shall provide Garbage Containers upon request to Residential Service Recipients. Garbage Containers shall be delivered to Residential Service Recipients within one week of the request.

5.3.2. Frequency of Collection - Franchisee shall provide regular, scheduled collection of Garbage from each Residential Service Recipient in Town on a once-per-week basis, Monday through Friday, except following Holidays. Collection shall be made from Garbage Containers which are placed at an accessible location selected by the Service Recipient.

5.3.3. Excess Garbage - Franchisee shall collect Garbage in excess of the normal level of service on the normal day of collection when the Service Recipient has called and made arrangements with Franchisee at least one day in advance of the regular collection day, to schedule the collection and make the appropriate payment. Excess Garbage must be placed in an approved Garbage Container, and not exceed the weight limitations listed in Section 5.3.5.

5.3.4. Extra Garbage - Franchisee shall collect Garbage from Service Recipients on other than the normal day of service when the Service Recipient has called and made arrangements with Franchisee to provide extra service.

5.3.5. Non-Collection - Franchisee shall not be required to collect any Garbage that is not placed in an approved Garbage Container. Franchisee shall not be required to collect Garbage from a Garbage Container where the combined weight of a rigid container and its contents exceed 60 pounds in weight, or where the contents of plastic bags exceed 30 pounds in weight, except from Franchisee supplied wheeled carts; or when the volume of the Garbage exceeds the capacity of the Garbage Container when its lid is closed. In the event of non-collection, Franchisee shall leave a Non-Collection Notice.

5.4. Residential Recyclable Materials Collection.

5.4.1. Frequency of Collection - Franchisee shall provide regular, scheduled collection of Recyclable Materials from each Residential Service Recipient every week, on the same day of the week that Franchisee performs Garbage Collection services. Recyclable Materials shall be collected from Recyclable Materials Containers placed adjacent to the Garbage Containers.

5.4.2. Provision of Recycling Containers - Franchisee shall provide Recyclable Materials Containers to Residential Service Recipients. Recyclable Materials Containers shall be delivered to Residential Service Recipients within one week of the start of this Agreement.

All Recyclable Materials Containers provided by Franchisee pursuant to this Agreement shall become the property of Town at the termination of this Agreement. Recyclable Materials Containers shall be labeled for "Recycling" and "Property of the Town of Los Altos Hills." Recyclable Materials Containers shall not be marked with the GreenWaste Recovery name or logo.

5.4.3. Recyclable Materials Overages – Franchisee shall collect all Recyclable Materials properly prepared for collection by the Service Recipient each week. In the event a Service Recipient has a greater quantity of Recyclable Materials than can be set out in the Recyclable Materials Containers provided pursuant to this Agreement, the Service Recipient may set out such Recyclable Materials overages in durable containers supplied by the Service Recipient which are marked for recycling and set out next to the Recyclable Materials Containers. Service Recipient may set flattened cardboard boxes, which are too large to fit in the Recyclable Materials Container, next to the container. Franchisee shall collect such Recyclable Materials Overages on the same day Franchisee collects Recyclable Materials from the Service Recipient. Franchisee shall have no obligation to collect Recyclable Materials Overages where Recyclable Materials are not set out in Recyclable Materials Containers or other durable containers, or where any overage container and contents weighs in excess of sixty (60) pounds. Service Recipients may request additional Containers if they regularly generate more materials than will fit in their current Container. Franchisee shall provide a sufficient number of Recyclable Materials Containers to Service Recipients to manage the materials they generate on a regular basis.

5.4.4 Non-Collection - Franchisee shall not be required to collect any Recyclable Materials that are not in conformance with Section 5.4.3 of this Agreement. In the event of a non-collection, Franchisee shall leave a Non-Collection Notice.

5.5. Compostable Materials Collection.

5.5.1. Frequency of Collection - Franchisee shall provide regular, scheduled collection of Compostable Materials from each Residential Service Recipient, every week on the same day of the week that Franchisee performs Garbage collection services.

5.5.2. Compostable Materials Containers – Franchisee shall provide Compostable Materials Containers to Residential Service Recipients. Compostable Materials Containers shall be delivered to Residential Service Recipients within one week of the start of this Agreement.

Compostable Materials shall be collected from Franchisee supplied Compostable Materials Containers, or other durable containers provided by the Residential Service Recipient. If other containers are used, the combined weight of the container and the Compostable Materials shall not exceed 60 pounds. Compostable Materials Containers must be placed adjacent to the Garbage Containers by the Residential Service Recipient. To promote maximum diversion, Franchisee shall collect all Compostable Materials properly prepared for collection on each collection day.

5.5.3. Non-Collection - Franchisee shall not be required to collect any Compostable Materials that are not in conformance with Section 5.5.2 of this Agreement. In the event of non-collection, Franchisee shall leave a Non-Collection Notice.

5.5.4 Christmas Tree Collection - As part of the Compostable Materials Collection Program, Franchisee shall collect, on the normal Compostable Materials Collection schedule, all

unornamented Christmas trees which are set out next to the Compostable Materials Containers in the first twenty-eight (28) calendar days following December 26 of each year for the term of this Agreement. Franchisee shall not be required to collect ornamented trees, nor shall Franchisee be required to collect trees, or parts of trees, which are over six (6) feet in length.

5.5.5 Compostable Materials Carts - Franchisee shall provide Compostable Materials Carts to Service Recipients who pay for the Carts as specified in EXHIBIT B. Compostable Materials Carts shall be dark green in color, wheeled and have capacity to hold 90-gallon in capacity. There shall be no limit on how much Compostable Materials are set out for collection.

5.6. Missed Pick-Ups - The failure of Franchisee to pick up Garbage, Recyclable or Compostable Materials which have been set out on time and in an approved Container by a Service Recipient in Town shall be considered a missed pick-up. If Franchisee is notified of a missed pick-up by 9:00 AM on the business day following the scheduled collection day for the Service Recipient, Franchisee shall collect the missed pick-up on the day of notification. If the Franchisee is notified after 9:00 AM on the business day following the scheduled collection day for the Service Recipient, Franchisee shall collect the material from the Service Recipient within twenty-four (24) hours of Franchisee being notified of the missed pick-up, except where collection on a Sunday or Holiday would be required, in which case Franchisee may perform the collection of a missed pick-up on the first working day immediately following the date of notification.

Franchisee shall maintain a written record of all calls relating to missed pick-ups and the response provided by Franchisee. The record shall be maintained in accordance with the reporting and monitoring requirements of Article 11 of this Agreement.

In the event Franchisee fails to collect a missed pick-up within the times set forth in this Section, Town or its agents may collect and transport the material. Town shall notify Franchisee in writing whenever Town or its agent collects a missed pick-up. Town may require Franchisee to pay Liquidated Damages for any costs incurred by Town in collecting a missed pick-up, as provided in Section 13.4 of this Agreement.

#### 5.7 Non-Residential Garbage Bin Service.

5.7.1 Frequency of Collection - Franchisee shall provide appropriate Garbage Containers to each Non-Residential Service Recipient. Franchisee shall collect Garbage from each Non-Residential Garbage Container at least once-per-week, Monday through Saturday, and as often as needed to prevent overages on a normal basis. Collection shall be made from Non-Residential Garbage Containers placed at the point of service selected by the Service Recipient.

5.7.2 Extra Garbage - Franchisee shall collect Garbage from Non-Residential Service Recipients on other than on normal service days when the Service Recipient has called and made arrangements with Franchisee in advance to schedule the collection and make the appropriate payment.

5.7.3 Non-Collection - Franchisee shall not be required to collect any Garbage that is not placed in an approved Non-Residential Garbage Container. Franchisee shall not be required to collect Garbage from an approved Non-Residential Garbage Container where the weight of the Garbage exceeds the limit set by the Franchisee for that size of container, or where the volume exceeds the capacity of the container when its lid closed. Prior to leaving the garbage uncollected, the driver shall make at least one attempt to contact the business to get them to correct the situation. In the event of non-collection, Franchisee shall leave a Non-Collection Notice.

#### 5.8 Non-Residential Recyclable Materials Collection.

5.8.1 Frequency of Collection - Franchisee shall provide Recyclable Materials collection services, to all businesses that have Non-Residential Garbage service. Franchisee shall collect Recyclable Materials from each Non-Residential Service Recipient as often as necessary to minimize overages based on the volume of the containers provided by the Franchisee. Franchisee shall provide at least equal volume of Recyclable Materials collection service to the Non-Residential Service Recipient as they do Non-Residential Garbage service to encourage diversion.

5.8.2 Recyclable Materials Overages - In the event a Non-Residential Service Recipient has a greater quantity of Recyclable Materials than can normally be contained in the appropriate containers provided by Franchisee, Franchisee shall provide the Service Recipient, at Franchisee's own cost and expense, additional containers or more frequent collection service. Franchisee shall collect such Recyclable Materials Overages on the same day Franchisee collects Recyclable Materials from the Service Recipient.

5.8.3 Non-Collection - Franchisee shall not be required to collect any Recyclable Materials that are not placed in Recyclable Materials Containers. In the event of a non-collection, Franchisee shall leave a Non-Collection Notice.

5.9 Extra Services - In addition to the Extra Services provided for in Section 5.3.3 of this Agreement, Extra Services shall include collection of Garbage, Recyclable or Compostable Materials from Bin-by-the-Day, or Debris Boxes on a schedule requested by the Service Recipient.

Bin-by-the-Day Services may be used by Service Recipients for a period not to exceed seven (7) days to dispose of Bulky Goods and oversized Compostable Materials which would not fit into a Garbage Container.

Debris Box Services may be used by Residential and Non-Residential Service Recipients to dispose of Bulky Goods and oversized Compostable Materials which would not fit into a normal Garbage Container.

For billing and compensation purposes, all Debris Box Services and Bin-by-the-Day Services are classified as Extra Services under this Agreement. Charges to the Service Recipients for these services shall be set by Town; Franchisee shall receive payment based on the rates in EXHIBIT B.

5.9.1 Designated Facility - Franchisee shall haul Recyclable Extra Service Loads to the facilities designated and approved by Town. Town desires that franchisee haul the loads to processing facilities where the materials can be diverted from disposal.

5.9.2 Frequency of Collection - Franchisee shall provide containers for Extra Services to Residential and Non-Residential Service Recipients as requested. Franchisee shall collect Garbage, Recyclable or Compostable Materials from each Bin-by-the-Day, or Debris Box, on the schedule requested by the Service Recipient, but not less often than once a week if they contain Garbage.

5.9.3 Non-Collection - Franchisee shall not be required to collect any Bin-by-the-Day Container or Debris Box where the weight exceeds the limit set by the Franchisee for that size of container, or where the volume exceeds the capacity of the container. In the event of non-collection, Franchisee shall leave a Non-Collection Notice.

5.10 Town-Wide Clean-Up Services - Three times per year, on a schedule mutually agreed upon by Franchisee and Town, Franchisee will provide a Town-wide clean-up service to residents of Town. Franchisee shall provide sufficient equipment to collect and remove accumulated wastes that have not otherwise been collected through the regular scheduled collection services provided to residents pursuant to this Agreement.

Franchisee shall handle all materials received in a manner that will allow the maximum amount to be recycled, or otherwise diverted from landfill. Franchisee shall provide the services described in EXHIBIT D of this Agreement. The services required in this paragraph shall not serve to release Franchisee from its obligations under Section 5.12.

5.11 On-Call Clean-Up Services - Two times per year, upon request, Franchisee will provide On-call Clean-up services to each Residential Service Recipient. Franchisee shall provide the services described in EXHIBIT E of this Agreement. Franchisee shall handle all materials received in a manner that will allow the maximum amount to be recycled, or otherwise diverted from landfill. The services required in this paragraph shall not serve to release Franchisee from its obligations under Section 5.12.

5.12 Services to Town – Garbage, Recyclable and Compostable Materials collection services described in Article 5 of this Agreement, and including collection of horse manure, shall be provided (1) to Town Hall, (2) to the Town Corporation Yard, (3) to the Little League Fields, and (4) other Town facilities designated by City Manager. There shall be no charge to Town for these services. Town shall select the locations, and Franchisee shall provide appropriate containers, and service them on a mutually agreed schedule that will prevent over-flow of the containers.

5.13 Street Sweeping - Franchisee shall provide regular, scheduled Street Sweeping services sixteen times per year to street segments listed in EXHIBIT G. Street Sweeping services shall be provided twice a month for the six months from October 1 through March 31, and four times from April 1 through September 30. Franchisee shall provide Town with an annual Street Sweeping Schedule that may be used to notify residents of these services.

Town and Franchisee acknowledge that during the term of this Agreement it may be necessary or desirable to add or delete streets from the list, and Franchisee agrees to add those services as requested.

In the operation of the street sweepers, Franchisee shall maintain good practices to leave the streets sufficiently free of refuse, litter, leaves, debris and dirt to meet applicable industry standards, and NPDES Program, State and Federal requirements.

Franchisee may transfer sweepings from the sweeper to a haul vehicle at the Town's Public Works Yard on Purissima Road. Franchisee shall be responsible for the proper disposal of all collected debris.

5.14 Service Recipient Changes - Town and Franchisee acknowledge that during the term of this Agreement it may be necessary or desirable to add or delete Service Recipients for whom Franchisee will provide collection services.

5.15 Failure To Provide Collection Services - In the event Franchisee fails to provide any of the collection services as required under this Agreement, Town may, but shall have no obligation to, and without waiving or relieving Franchisee of its obligation to provide such services, make such payment or perform such other act as Town deems appropriate to effectuate such services.

5.16 Collection Time – Franchisee shall make a good faith effort to provide collection services at a consistent time of day for each Residential Service Recipient, and not to change the time of service more often than necessary, to maintain an efficient collection system.

## ARTICLE 6 COLLECTION ROUTES

6.1 Collection Route Information - Franchisee shall maintain, and provide to Town within ninety (90) days of the effective date of this Agreement, and on request (up to two times a year), within fifteen (15) working days, current and accurate maps indicating:

- A. Areas of collection including route numbers and truck numbers.
- B. Day of the week collection service is provided.
- C. Approximate time of collection (early or late AM, or early or late PM).
- D. Start point, end point, and the actual street-by-street course the collection vehicles follow on routes.
- E. Boundary of each individual route. Each adjoining route on the map shall be in a distinct color or pattern so that adjoining routes are clearly delineated. Franchisee shall provide the maps to Town both in hard copy and pdf format.
- F. A listing of the name, address and level of service for each Service Recipient.

6.2 Collection Route Changes - For any route changes proposed by Franchisee, Franchisee shall submit to Town, in writing, the proposed change to routes (including by not limited to boundaries and addresses affected) not less than sixty (60) calendar days prior to the proposed date of implementation. Within thirty (30) calendar days of receipt of Franchisee's proposed change, Town shall provide written notice to Franchisee as to whether the proposed change is acceptable or not. Franchisee shall not implement any route changes without the prior written authorization of the City Manager. Franchisee shall notify all affected Service Recipients of any authorized route change affecting day of service at least two weeks in advance of the change.

6.3 Route Audits - Town may, at Town's sole expense, perform a route audit. Town may hire a third party to conduct the route audit. Franchisee shall fully cooperate in the audit and supply all requested information to Town's Consultant in a timely manner at no cost to Town.

## **ARTICLE 7 COLLECTION EQUIPMENT**

### 7.1 Equipment Specifications

7.1.1 General Provisions - All collection equipment used by Franchisee in the performance of this Agreement shall be of high quality. The vehicles shall be designed and operated so as to prevent Garbage, Recyclable Materials, Compostable Materials, or Street Sweepings from escaping from the vehicles.

7.1.2 Registration - All vehicles used by Franchisee in providing services under this Agreement, except those vehicles used solely on Franchisee's premises, shall be registered with the California Department of Motor Vehicles.

7.1.3 Safety Markings - All collection equipment used by Franchisee shall have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, clearance lights, and reflective tape striping. All such safety markings shall be in accordance with the requirements of the California Vehicle Code.

7.1.4 Vehicle Signage - Franchisee's name, telephone number and vehicle number shall be visibly displayed on both sides of all collection vehicles in letters and figures not less than four (4) inches high.

7.1.5 Collection Vehicle Noise Level - The noise level generated by collection vehicles using compaction mechanisms during the stationary compaction process shall not exceed seventy-five (75) decibels at a distance of twenty-five (25) feet from the collection vehicle measured at an elevation of five (5) feet from above ground level using the "A" scale of a standard sound level meter at slow

response. Franchisee shall cause the collection vehicles to be tested annually by an independent testing authority during the month of September, and shall submit a certificate of testing showing that the vehicles meet the requirements of this Section.

7.1.6 Vehicle Certifications - For each collection vehicle used in the performance of services under this Agreement, Franchisee shall comply with all applicable federal, state, and local laws governing the operation of such vehicles. Franchisee shall maintain copies of such certificates and reports and shall make such certificates and reports available for inspection upon request by the City Manager.

Franchisee shall submit each of Franchisee's collection vehicles for inspection by the California Department of Motor Vehicles as required by State law. Franchisee shall not use any vehicle which does not pass such inspection, or fully comply with all applicable federal, state, and local laws.

7.1.7 Equipment Maintenance - Franchisee shall maintain collection equipment in a clean condition and in good repair at all times. All parts and systems of the collection equipment shall operate properly and be maintained in a condition satisfactory to Town. Collection vehicles shall be painted white and vehicle striping and logos shall be painted Franchisee's primary corporate color. Franchisee shall repaint all collection vehicles (including vehicle striping) during the term of this Agreement on a frequency necessary to maintain a positive public image as reasonably determined by the City Manager. Franchisee shall wash all collection vehicles on a frequency necessary to maintain a positive public image.

7.1.8 Maintenance Log - Franchisee shall maintain a maintenance log for all collection vehicles. The maintenance log shall at all times be accessible to Town upon the request of the City Manager, and shall show, at a minimum, each vehicle's identification number, date of purchase or initial lease, dates of performance of routine maintenance, dates of performance of additional maintenance, and description of additional maintenance performed.

7.1.9 Back-Up Equipment - Franchisee shall maintain sufficient back-up equipment to ensure uninterrupted collection service during the term of this Agreement.

## **ARTICLE 8 GARBAGE DISPOSAL**

### **8.1 Franchisee's Responsibility**

8.1.1 Delivery of Materials - Franchisee shall transport all residues to be disposed of from all Garbage, Recyclable and Compostable Materials collected by Franchisee from Service Recipients, to the Newby Island Landfill.

8.1.2 Franchisee's Acknowledgment - Franchisee acknowledges that Town will not arrange for or pay for the disposal of Garbage, the residue from processing Recyclable Materials, Compostable Materials, or Bulky Goods. Proper handling of all such materials is the sole responsibility of the Franchisee.

## **ARTICLE 9 COMPOST DELIVERY AND DIVERSION CREDIT**

9.1 Compost - Franchisee shall transport and deliver to Town composted plant trimmings in the amount of up to ten percent (10%) of the tonnage of Compostable Materials collected by Franchisee under this Agreement, to sites within the Franchise Area designated by City Manager. A schedule of delivery of compost to the designated sites shall be mutually agreed to by Franchisee and City Manager.

9.2 Diversion Credit - Franchisee shall, to the maximum extent practicable, ensure that Recyclable Materials and Compostable Materials are collected and processed in a manner which will ensure that these materials will not be landfilled or used for other purposes at a landfill, and that Town will receive credit toward the State diversion mandates.

## ARTICLE 10 ADDITIONAL SERVICES

### 10.1 Customer Relations Services

10.1.1 Franchisee's Office - Franchisee shall maintain an office within thirty (30) miles of Town Hall where Franchisee shall be available during normal business hours for communication with City Manager, other Town representatives, and the public.

10.1.2 Local Telephone Number - A Customer Service Representative shall be available at the Franchisee's principal office, and shall be accessible by a local toll-free telephone number (with a 947- extension) to Town and Service Recipients at least during the hours of 8:00 AM to 5:00 PM, Monday through Friday, except for Holidays. The Customer Service Representative shall be able to assist on any matters which relate to the Franchisee's performance of services under this Agreement. A telephone answering machine shall be available at all other times. The telephone number shall be listed under Franchisee's name in the local telephone directory.

10.1.3 Emergency Telephone Number - Franchisee shall maintain an emergency telephone number for use when the listed telephone number is not attended. The emergency telephone number shall be available only to Town's Representative.

10.1.4 Service Recipient Inquiries and Complaints - All incoming calls shall be answered within a maximum of four (4) rings. No call shall be "on-hold" in excess of 2.5 minutes. If Town receives more than two (2) complaints a month regarding the amount of time Franchisee placed a caller on hold, liquidated damages covered under Section 13.6 shall be applied.

Franchisee shall make return calls to customers from messages received. Franchisee shall make three (3) attempts to return the call within twenty-four (24) hours of the receipt of the call. If Franchisee is unable to reach the caller in three attempts, Franchisee shall send a postcard to the caller on the second working day after the call was received, indicating that the Franchisee has attempted to return the call. All attempts to contact the caller shall be recorded on the log kept by Franchisee.

Franchisee shall record all complaints in a log which includes the date, time, nature of the complaint, complainant's name and address (if the complainant is willing to give this information), and nature and date and manner of resolution of complaint. This log shall be in a format approved by Town, and shall be available for inspection by Town during Franchisee's office hours.

10.2 Public Education & Outreach - The Franchisee shall implement all of the elements of the Franchisee's On-Going Public Education & Outreach Plan described in EXHIBIT C of this Agreement. Any changes to the Plan must be approved in advance by the City Manager. All printed materials produced by Franchisee relating to services provided under this Agreement, shall be approved by Town prior to being

printed for distribution. A Draft of all text and illustrations shall be provided to City Manager at least two weeks in advance of production of the final document. Comments provided by the City Manager shall be incorporated, and the final version of the text and illustrations shall be acceptable to both Town and Franchisee.

10.3 Fire Prevention Service - Franchisee shall provide the services described in EXHIBIT F of this Agreement. Franchisee shall provide all personnel and equipment required to complete these services in a timely manner. Franchisee shall provide all customer service support required to complete this service. Franchisee shall contact their customers to inform them of this service, providing an annual list of dates. Franchisee shall verify that residents that use the service are from the Fire District service area.

Franchisee shall handle all materials received in a manner that will allow the maximum amount to be recycled, or otherwise diverted from landfill. The services required in this paragraph shall not serve to release Franchisee from its obligations under Section 5.13.

Should there be a significant drop-off in use of this service, based on the unlimited weekly collection of plant trimmings service to residents of Los Altos Hills, the Fire District may cancel any of the turn-in events. Should the Fire District wish to cancel an event, they will provide sufficient notice to allow the notification of residents.

10.4 Additional Recyclable Materials

A. In the event Town or Franchisee proposes to add other materials to the list of Recyclable Materials to be collected, processed and marketed by Franchisee, such additional material shall be added to the list in EXHIBIT A of this Agreement, if mutually agreed to in writing by Town and Franchisee.

B. If Franchisee proposes the addition of the material, the proposal shall be in writing, and include the extent to which the addition of the proposed material would require a modification of the current Recyclable Materials collection vehicles, the use of an additional Recyclable Materials Container, and the use of additional collection vehicles, and shall notify Town of the estimated costs of adding the proposed material.

C. If Town proposes such addition in writing, Franchisee shall submit a written proposal detailing how the materials would be handled and the cost of adding the materials within thirty (30) calendar days of Town's request.

Town shall respond in writing to Franchisee's description of changes and costs of implementation within thirty (30) calendar days of Franchisee's notification to Town. Both parties shall negotiate in good faith for the purpose of reaching an Agreement for the addition of the proposed material and a schedule for the implementation of the collection of such material. The City Manager is authorized to negotiate on behalf of Town and to approve the additional material and implementation schedule, but any Agreement which would result in additional compensation to Franchisee, shall not become effective unless approved by the City Council.

D. Franchisee shall notify all Service Recipients of the changes in materials being recovered before any changes in the program are implemented.

10.5 Emergency Services - Franchisee shall begin providing emergency services within 24-hours of notification by Town. Emergency services are services beyond the services specified in this Agreement, which result from emergency conditions such as earthquake, fire, flood, or other natural calamity, riot, insurrection public disobedience, labor controversy, labor strike, or similar condition which threaten the public health, safety and welfare. Town shall pay Franchisee for emergency services performed pursuant to this Section 10.5 at the rate of One Hundred Fifty Dollars (\$150) for hour of service by truck and driver. Emergency conditions do not include the results of failure of Franchisee to comply with the standards and procedures set forth in this Agreement.

Should Franchisee not be able to provide Emergency Services, Town, or its agents, may assume and carry out the Garbage, Recyclable and Compostable Materials Collection services. During the duration of the emergency, Franchisee shall make available to Town all of the company's operable equipment and other facilities necessary for providing the services required under this Agreement. Revenues which would normally accrue to Franchisee during the time the emergency services are provided, less the amount of any payments for equipment, shall accrue and be payable to Town to be used to pay the emergency services operator.

During the emergency conditions, Town, or its agents, shall operate, maintain and repair, without cost to Franchisee, Franchisee's equipment and other facilities used by Town. Upon cessation of the Emergency condition, the right to use such equipment shall expire and Town shall return said equipment to Franchisee in a condition substantially the same as that which existed upon acquiring said equipment, ordinary wear and tear excepted.

## 10.6 Disruption of Services

10.6.1 Substitute Collection - If, at any time during the term of this Agreement, for a period of seventy-two (72) consecutive hours or more, Franchisee fails for any reason to collect and remove Garbage, Recyclable and Compostable Materials as required in this Agreement, Town may immediately, upon written notice to Franchisee, cause such Garbage, Recyclable and Compostable Materials to be collected and removed by whatever means available to Town. For so long as Franchisee continues to collect fees from Service Recipients pursuant to Section 12.3 of this Agreement, Franchisee shall pay any and all costs incurred by Town for the provision of such substitute services.

10.6.2 Use of Equipment - In the event Franchisee fails to collect and remove Garbage, Recyclable and Compostable Materials as required in this Agreement, for a period of seventy-two (72) consecutive hours or more, Town, upon written notice to Franchisee, may (but shall not be required to) take possession of and operate through its employees or any other properly licensed persons, any and all trucks and other equipment used by the Franchisee for the collection and removal of Garbage, Recyclable and Compostable Materials in the Franchise Area until such time, not to exceed one-hundred-twenty (120) days, as Franchisee satisfies Town that it is ready, able and willing to comply with all the provisions of this Agreement. In this event, Franchisee shall provide Town with driver route listings and necessary operational records. For so long as Franchisee continues to collect fees from Service Recipients pursuant to Section 12.3, Franchisee shall reimburse Town in full for any costs incurred by Town pursuant to this Section. Town shall indemnify and hold harmless Franchisee from and against any damage to such equipment or liability to any third person injured or damaged as a result of Town's use or possession of such equipment, to the extent such damage or liability is not covered by insurance. Employees of Franchisee, including management employees, may be employed by Town during any period in which Town temporarily assumes the obligations of Franchisee under this Agreement.

10.6.3 Strike or Labor Dispute - The parties hereby agree that in the event a strike or labor dispute occurs, this Agreement shall not terminate for the duration of the strike or labor dispute, provided that Franchisee uses its best efforts to insure that its obligations under this Agreement do not go unperformed for a period greater than seventy-two (72) hours (excluding week-ends). In order to insure that its obligations under this Agreement are adequately performed, Franchisee may subcontract the performance of services required under this Agreement with entities not affiliated with Franchisee. In the event that Town assumes responsibility for Garbage, Recyclable and Compostable Materials handling services in Town, Franchisee shall maintain an unobstructed entrance at its place of business which is not regularly used but which will be primarily reserved for

use by Town while Town or its designated representative is collecting Garbage, Recyclable and Compostable Materials. If the labor dispute or picketing blocks access to Franchisee's place of business, Franchisee shall receive no compensation for any time period in which it failed to collect and remove Garbage, Recyclable and Compostable Materials in accordance with the provisions of this Agreement.

## **ARTICLE 11 REPORTING REQUIREMENTS**

11.1 General Reporting Requirements - Franchisee shall provide Quarterly and Annual Reports as detailed in EXHIBIT H of this Agreement, at no cost to Town.

11.2 Service Recipient Database - Franchisee shall maintain at all times a computerized data base containing a complete file of Service Recipients coded by category, number of Garbage Containers, and set-back distance charges. The file shall include the address of the collection location and the address of the Service Recipient if it is different. The data base shall at all times be accessible by Town. Franchisee shall cooperate with Town with respect to providing information relevant to this Agreement which is not specified in this Article 11. Franchisee shall not use the Service Recipient Database for any purpose other than to provide services specified in this Agreement. The Database may not be distributed to any party other than to provide services specified in this Agreement. The Database shall be turned over to Town upon termination of this Agreement.

11.3 Transfer of Data - The customer billing database shall be considered to be jointly owned by both Town and the Franchisee, and shall be made available to Town on request. Six (6) months prior to the termination date of this Agreement, and within ten working days of a request by Town (up to five times during the term of the Agreement), the Franchisee shall provide Town a complete listing of all billing accounts, level of service information and route maps. The listing of billing accounts and level of service information shall be provided on a computer disk in software mutually agreed upon by both Town and the Franchisee.

## **ARTICLE 12 SERVICE RATES & PAYMENTS**

12.1 Rate Adjustments to Service Recipients - Rates charged to Service Recipients for services provided pursuant to this Agreement shall be set by the City Council. Rates will be adjusted annually based on the formula provided in Section 13.2 of this Agreement.

12.2 Rates to Service Recipients - The Franchisee shall bill Service Recipients for services at the rates set by the City Council. The Rates to Service Recipients for the period from October 1, 2008 through June 30, 2009 are provided in EXHIBIT B of this Agreement.

12.3 Billing - Franchisee shall mail bills to all Service Recipients not earlier than one month, nor later than two months, into each quarterly billing cycle. Payment shall be due one month from the date the bill is mailed.

Franchisee shall undertake reasonable efforts to obtain payment of delinquent amounts from Service Recipients, including, but not limited to, sending three (3) written notices and demand letters, and making weekly telephone calls to all Service Recipients who have not paid their bill by the due date. The "second notice" billing should be mailed not later than 10 working days after the original due date.

Quarterly, at the end of each billing cycle, Franchisee shall provide Town with the names, addresses, APN number, and amount owed for all Service Recipients who are more than 90 days delinquent in making payments for services provided.

12.4 Payments to Town - Franchisee shall remit to Town, within ten days of the end of each month, a Franchise Fee in the amount of ten percent (10.0%) of all revenues received in the prior month relating to the performance of this Agreement, including but not limited to service fees, and extra service fees. This payment to Town shall be accompanied by sufficient documentation to identify the source of all revenues. This documentation shall include, at a minimum, specifics for each account, the amount billed, the amount collected, a listing of accounts which received extra services and the amount of extra services provided, and a listing of accounts which are delinquent.

Franchise Fees will be due on any revenues received from the performance of this Agreement following the termination of this Agreement.

### **ARTICLE 13 FRANCHISEE'S COMPENSATION**

13.1 Franchisee's Compensation - Franchisee shall retain all revenues received from this Agreement, except the ten percent (10.0%) Franchise Fee.

13.2 Annual Compensation Adjustments - The Franchisee's compensation will be increased or decreased ANNUALLY by 100% of the change in the Consumer Price Index (U) for All Items for the San Francisco Bay Area, to adjust for changes in Franchisee's cost of doing business. The Compensation adjustment, that will apply to the subsequent Contract Year (July 1 to June 30), will be based on increases or decreases for the period of January 1 to December 31 of the prior calendar year. Wages and benefits paid to Drivers providing service in Town shall reflect changes based on the Franchisee's Annual Compensation Adjustments.

13.3 Special Compensation Adjustments - Regulatory changes and other changes which can not be foreseen, or events outside of Franchisee's control, may be the basis for a special adjustment of the Franchisee's Compensation. Franchisee may request a Special Compensation Adjustment at any time. Special Compensation Adjustments will be solely at the reasonable discretion of Town, based on the written request and documentation provided by the Franchisee.

13.4 Adjustments for Damages - Town shall charge the Franchisee any costs Town incurs for the Franchisee's failure to: collect wastes, divert materials to be in compliance with State and Federal Regulations, and operate equipment properly; or the costs of responding to complaints and problems; and other costs relating to failure of the Franchisee to comply with all other aspects of this Agreement.

Town and Franchisee agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages, including the relationship of the sums to the range of harm to Town that reasonably could be anticipated, and the anticipation that proof of actual damages would be costly or inconvenient.

Franchisee agrees to pay liquidated damages (not as a penalty) as set forth below:

- \* For each failure over six (6), in any 12 consecutive month period, to commence service to a new Service Recipient within seven (7) days of request.
- \* For each failure over six (6), in any 12 consecutive month period, to provide Recyclable Materials Containers to a new Service Recipient within seven (7) days of request.
- \* For each failure over twelve (12), in any 12 consecutive month period, to collect Garbage, Recyclable Materials or Compostable Materials which had been properly set-out for collection,

- \* For each failure over twelve (12), in any 12 consecutive month period, to collect a missed set-out within 24 hours,
- \* For each occurrence of collection during unauthorized hours (starting early or finishing late),
- \* For each occurrence over twelve (12), in any 12 consecutive month period, of leaving litter in a public street,
- \* For each time the billing procedures described in Section 12.3 of this Agreement are not followed,
- \* For each calendar day a Required Report is incomplete, inaccurate or late,
- \* For each complaint over two (2) in any month regarding the amount of time a customer is left on hold on a call,
- \* For each occurrence of other similar incidents.

Damages will start at \$25.00 per incident, and may increase, at sole discretion of Town, in increments of up to \$50, to a maximum of \$500 per incident for repeated failure to perform any one condition as specified in the Agreement. After learning of the occurrence of any incident that is to be used as the basis for the assessment of any liquidated damages, or that is to be used as an incident preceding an incident that is the basis for the assessment of any liquidated damages, Town shall provide Franchisee written notice of the incident. The notice will include a brief description of the incident.

Within ten (10) days of notification by Town, Franchisee may submit a written appeal to the City Manager challenging the occurrence of the incident, stating why the incident is not a proper basis for the assessment of liquidated damages, or is not a proper incident preceding an incident that for the basis for the assessment of liquidated damages, or explaining why the liquidated damages should not be assessed. The decision of the City Manager shall be final. Franchisee shall pay any liquidated damages within thirty (30) calendar days after they are assessed. Payment of liquidated damages will in no way be a waiver of Town's authority to terminate this Agreement.

13.5 Collection Services Reimbursement - In the event Franchisee fails to provide collection services as required under Article 5 of this Agreement, and Town exercises its rights under Section 10.6 of this Agreement, Franchisee shall reimburse Town for any and all payments made or costs incurred by Town to effectuate such collection services, plus an administrative fee in the amount of twenty-five percent (25%) of such payments or costs.

13.6 Other Reimbursements - In the event Franchisee fails to perform any service required under this Agreement, such failure continues for five (5) calendar days after Town notifies Franchisee of such failure to perform, and Town subsequently makes any payment or incurs any cost to perform the service required of Franchisee, Franchisee shall reimburse Town for any and all payments so made or costs so incurred by Town, plus an administrative fee in the amount of twenty-five percent (25%) of such payments or costs.

## **ARTICLE 14 PERFORMANCE BOND**

14.1 Faithful Performance Bond - Within ten (10) calendar days from the date the City Council approves this Agreement and by July 10 of each year of this Agreement, Franchisee shall procure and provide Town with a fully prepaid surety bond, or the letter of credit, for at least the duration of such Contract Year, to guarantee and assure the prompt and faithful performance of Franchisee's obligations under this Agreement. Such bond shall be executed by a surety licensed and in good standing with the Department of Insurance in the State of California, and have a Best Company rating of A-10 or better. The bond shall name Town of Los Altos Hills as obligee, shall provide at least thirty (30) calendar days prior notice of any cancellation, and shall be in the amount of Three Hundred Thousand Dollars (\$300,000.00). The bond will continue in

effect for three months beyond term of the Agreement, or until all Franchise Fee Payments to Town and the End of Agreement Reports specified in EXHIBIT H are provided to Town [whichever comes first].

The form of the bond and the surety are subject to the approval of The City Manager and the City Attorney. The bond will be executed as surety by a corporation authorized to issue surety bonds in the State of California, with a financial condition and record of service satisfactory to Town. Town reserves the right to reduce or waive this requirement at any time.

The condition of the performance bond shall be such that if Franchisee shall well and truly perform the covenants, promises, undertakings and obligations contracted by Franchisee to be performed under this Agreement, then the obligation of the bond shall be void; otherwise it shall remain in full force and effect. Said bond shall terminate and be canceled upon the completion of all of Franchisee's obligations under this Agreement. Town shall execute and deliver to Franchisee or Franchisee's surety company promptly upon Franchisee's completion of all of Franchisee's obligations under this Agreement such certificates or other documents as either of them may reasonably request for the purpose of terminating and canceling such performance bond.

14.2 Town's Rights - Town shall have the right to draw against the faithful performance bond or the letter of credit in the event of a breach or default of Franchisee or the failure of Franchisee to perform fully any obligation under this Agreement. Within five (5) calendar days of receipt of notice from Town, Franchisee shall renew or replace such sums of money as needed to bring the faithful performance bond or letter of credit current.

## ARTICLE 15 INSURANCE REQUIREMENTS

15.1 Insurance Policies - Franchisee shall procure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with Franchisee's performance of work or services under this Agreement. Franchisee's performance of work or services shall include performance by Franchisee's employees, agents, representatives and subcontractors.

- 15.1.1 Minimum Limits of Insurance - Franchisee shall maintain insurance limits no less than:
- A. Comprehensive General Liability: \$4,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
  - B. Automobile Liability: \$4,000,000 for bodily injury per person; \$2,000,000 for bodily injury per occurrence; and \$2,000,000 for property damage.
  - C. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability.
  - D. Hazardous Waste and Environmental Impairment Liability: \$4,000,000 per occurrence.

15.1.2 Deductibles and Self-Insured Retentions - Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager. At the option of Town, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Town, its officers, employees, agents and Franchisees; or Franchisee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City Manager.

15.2 Endorsements - The policies are to contain, or be endorsed to contain, the following provisions:

- A. General Liability and Automobile Liability Coverage

1. Town, its officers, insureds, employees, agents and Franchisees are to be covered and named as additional insureds as respects: Liability arising out of activities performed by, or on behalf of, Franchisee; products and completed operation of Franchisee; premises owned, leased or used by Franchisee; and automobiles owned, leased, hired or borrowed by Franchisee. The coverage shall contain no special limitations on the scope of protection afforded to Town, its officers, employees, agents and Franchisees.

2. Franchisee's insurance coverage shall be primary insurance as respects Town, its officers, employees, agents, and Franchisees. Any insurance, or self-insurance maintained by Town, its officers, employees, agents or Franchisees shall be excess of Franchisee's insurance and shall not contribute with it.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Town, its officers, employees, agents, or Franchisees.

5. Coverage shall state that Franchisee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

B. All Coverage - Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days' prior written notice has been given to Town.

15.3 Acceptability Of Insurers - Insurance is to be placed with insurers acceptable to the City Manager. Such insurance shall be executed by a surety licensed and in good standing with the Department of Insurance in the State of California, and have a Best Company rating of A-10 or better. All insurers must be identified by full name; rating, according to the latest edition of Best's Key Rating Guide; and status as insurers admitted in California. If the company is not rated, current financial information should accompany the quotation.

15.4 Verification Of Coverage - Franchisee shall furnish Town with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Franchisee shall furnish Town with a new certificate of insurance and endorsements upon each renewal of coverage or change of insurers. Proof of insurance shall be provided in writing to the City Manager.

15.5 Subcontractors - Franchisee shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.

15.6 Modification of Insurance Requirements - The insurance requirements provided in this Agreement may be modified or waived by the City Manager, in writing, upon the request of Franchisee if the City Manager determines such modification or waiver is in the best interests of Town considering all relevant factors, including exposure to Town.

## ARTICLE 16 INDEMNIFICATION

16.1 Indemnification and Hold Harmless - Franchisee, for and on behalf of itself and its agents, subcontractors, directors, officers, employees and representatives shall indemnify, defend and hold harmless Town, its officers, agents and employees from and against any and all losses, liabilities, penalties, claims, demands, judgments, damages, actions or suits, of any and every kind and description, arising or resulting from any work or services performed by Franchisee or its agents, subcontractors, directors, officers, employees, or representatives pursuant to this Agreement, or which results from their noncompliance with any laws respecting the collection, transportation, processing or disposal of Recyclable and Compostable

Materials. The acceptance by Town of any work or services under this Agreement shall not operate as a waiver of such indemnification or hold harmless.

16.2 Defense - Upon the demand of Town, Franchisee shall defend Town, its officers and/or employees against any matter described in Section 16.1 of this Agreement with Attorneys reasonably approved by Town.

16.3 Exception - Notwithstanding Sections 16.1 and 16.2, Franchisee's obligation to indemnify, hold harmless and defend Town, its officers and employees shall not extend to any loss, liability, penalty, claim, demand, action or suit arising from acts or omissions constituting willful misconduct on the part of Town, its officers or employees.

16.4 Damage by Franchisee - If Franchisee's employees or subcontractors cause any injury, damage or loss to Town property, including but not limited to Town streets or curbs (excluding normal wear and tear), Franchisee shall reimburse Town for Town's costs of repairing such injury, damage or loss. Such reimbursement is not in derogation of any right of Town to be indemnified by Franchisee for any such injury, damage or loss. With the prior written approval of Town's City Manager, Franchisee may repair the damage at Franchisee's sole cost and expense.

## ARTICLE 17 TERMINATION

17.1 Franchisee's Default - Town may terminate this Agreement upon Franchisee's default of any material duty or obligation of Franchisee under this Agreement and Franchisee's failure to cure such default within thirty (30) calendar days of Town's written notice to Franchisee of such default. If the default is not capable of cure within said thirty (30) calendar days, Franchisee shall provide written notice to Town together with a schedule of cure within fifteen (15) calendar days of Town's notice of default, shall begin actions to cure the default within said thirty (30) calendar days, and shall diligently proceed to cure the default. Town may accept Franchisee's schedule of cure, may make a written demand that Franchisee cure the default within a time period set by Town, or may terminate this Agreement at the end of the thirty-day default period.

17.2 Immediate Termination - Town may terminate this Agreement immediately upon written notice to Franchisee in the event Franchisee fails to provide and maintain the performance bond as required by this Agreement, Franchisee fails to obtain or maintain the insurance policies and endorsements as required by this Agreement, Franchisee fails to provide the proof of insurance as required by this Agreement, or Franchisee fails to indemnify Town against State Penalties under AB 9310.

17.3 Bankruptcy Or Insolvency Of Franchisee - Town may terminate this Agreement immediately upon written notice to Franchisee upon the occurrence of any of the following and Franchisee's failure to provide adequate assurance that any of the following can be removed within thirty (30) calendar days of Town's demand for such assurance: (1) the appointment of a receiver or trustee to take possession of all or substantially all of the assets of Franchisee; (2) Franchisee's general assignment if its assets for the benefit of Franchisee's creditors; (3) a court entry of any decree or order adjudging Franchisee to be insolvent or bankrupt; (4) a court entry of any decree or order approving as properly filed a petition seeking reorganization of Franchisee or an arrangement under the bankruptcy laws or any other applicable debtor's relief law or statute of the United States or any State; or (5) a determination by the City Manager, based upon a statement prepared by an independent certified public accountant mutually agreed upon by Franchisee and the City Manager, that there is a reasonable probability that Franchisee's financial capability to perform this Agreement is impaired.

17.4 Authority to Terminate - The City Council of Town is authorized to terminate this Agreement on behalf of Town. Any termination of this Agreement under this Article 18 shall not relieve Franchisee of the obligation to pay any fees, taxes, or other charges then due to Town nor relieve Franchisee of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve Franchisee from any claim for damages previously accrued or then accruing against Franchisee. Town shall pay to Franchisee any amounts due to Franchisee for the performance of services under this Agreement through the effective date of termination.

17.5 Termination Cumulative - Town's right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

## ARTICLE 18 GENERAL PROVISIONS

18.1 Service Standards - Franchisee shall perform all services under this Agreement in a thorough and professional manner. Collection services described in Article 5 of this Agreement shall be performed regardless of weather conditions and regardless of difficulty of collection. Additional services described in Article 10 of this Agreement shall be performed professionally, promptly and courteously.

18.2 Labor and Equipment - Franchisee shall provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of Franchisee's obligations under this Agreement. Franchisee shall at all times have sufficient back up equipment and labor to fulfill Franchisee's obligations under this Agreement. No compensation for Franchisee's services or for Franchisee's supply of labor, equipment, tools, facilities or supervision shall be provided or paid to Franchisee by Town or by any Service Recipient except as expressly provided by this Agreement.

18.3 Assignment - The experience and expertise of Franchisee are material considerations for this Agreement. Franchisee shall not assign any of Franchisee's rights nor delegate any of Franchisee's duties under this Agreement. Any attempt to so assign Franchisee's rights or delegate Franchisee's duties shall be void and of no force or effect.

Should the Franchisee wish to assign any of Franchisee's duties under this Agreement, Franchisee must submit their request in writing, and proposal must be approved by City Council prior to implementation. Any attempted assignment shall be null and void and of no effect without prior City Council approval.

18.4 Successors and Assigns - This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided that no party hereto may assign this Agreement without the prior consent of the other party, which consent the Town may withhold at its sole discretion; and provided, further, that no assignment shall be valid and binding that endeavors to relieve the assigning party of any obligations to make payments that accrued prior to the date of assignment or of which the assignee has not affirmatively agreed, in writing, to assume all obligations of the assignor thereunder. Any dissolution, merger, consolidation, or other reorganization of Franchisee, or the sale or other transfer of a controlling percentage of the capital stock of Franchisee, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least 51% of the total combined voting power of all classes of Franchisee's capital stock issued, outstanding, and entitled to vote for the election of director.

18.5 Independent Franchisee - In the performance of services pursuant to this Agreement, Franchisee shall be an independent Franchisee and not an officer, agent, servant or employee of Town. Franchisee shall have exclusive control over the details of the services and work performed and over all persons performing such

services and work. Franchisee shall be solely responsible for the acts and omissions of its officers, agents, employees, Franchisees and subcontractors, if any. Neither Franchisee nor its officers, employees, agents, Franchisees or subcontractors shall obtain any right to retirement benefits, Workers' Compensation benefits, or any other benefits which accrue to Town employees and Franchisee expressly waives any claim it may have or acquire to such benefits.

18.6 Name - Franchisee shall not use a firm name containing the words "City" or "Town" or other words implying municipal ownership without prior written approval of Town.

18.7 Law to Govern - The law of the State of California shall govern this Agreement.

18.8 Venue - Any litigation between Town and Franchisee concerning or arising out of this Agreement shall be filed and maintained exclusively in the Municipal or Superior Courts of Santa Clara County, State of California, to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

18.9 Compliance with Law - In the performance of this Agreement, Franchisee shall comply with all applicable laws, regulations, ordinances and codes of the federal, state and local governments, including without limitation the Municipal Code of Town.

Town shall provide written notice to Franchisee of any planned amendment to the Los Altos Hills Municipal Code which would substantially affect the performance of Franchisee's services pursuant to this Agreement. Such notice shall be provided at least thirty (30) days prior to the City Council's approval of such an amendment.

18.10 Permits and Licenses - Franchisee shall obtain, and shall maintain throughout the term of this Agreement, all necessary permits, licenses and approvals required for Franchisee to perform the work and services agreed to be performed by Franchisee pursuant to this Agreement. Franchisee shall show proof of such permits, licenses or approvals and shall demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the City Manager, including without limitations, a business license.

18.11 Ownership of Written Materials - All reports, documents, brochures, public education materials, and other written, printed or photographic materials developed by Town or Franchisee in connection with the services to be performed under this Agreement, whether developed directly or indirectly by Town or Franchisee, shall be and shall remain the property of Town without limitation or restriction on the use of such materials by Town. Franchisee shall not use such materials in connection with any project not connected with this Agreement without the prior written consent of the City Manager.

18.12 Waiver - The waiver by Town or Franchisee of any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant or condition. The subsequent acceptance by Town of any fee, tax, or any other moneys which may become due from Franchisee to Town shall not be deemed to be a waiver by Town of any breach or violation of any term, covenant or condition of this Agreement.

18.13 Notices - All notices and other communications required or which may be given under this Agreement shall be deemed given when deposited in the United States mail or when personally delivered to the parties as specified in this Section. In the case of a notice or communication by telefax, a written copy shall be mailed or personally delivered within the three days of the transmittal of the telefax. All notices or other communications sent by mail shall be sent postage prepaid to the address specified below:

To Town: City Manager  
Town of Los Altos Hills  
26379 Fremont Road  
Los Altos Hills, CA 94022

City Manager can be reached by phone at 650-941-7222, or by fax at 650-941-3160.

To Franchisee: General Manager  
GreenWaste Recovery, Inc.  
1500 Berger Drive  
San Jose, CA, 95122

General Manager can be reached by phone at 408-938-4902, or by fax at 408-287-3108.

Either party may designate a different mailing address by providing notice to the other party as provided in this Section 18.13.

Notice by Town to Franchisee of a missed pick-up, or a Service Recipient problem or complaint, may be given to Franchisee orally through Franchisee's local telephone number, electronic mail or messaging or by telefax, with written confirmation sent to Franchisee within seventy-two (72) hours of the oral notification.

18.14 Transition to Next Franchisee - In the event Franchisee is not awarded an Agreement to continue to provide services following the expiration or earlier termination of this Agreement, Franchisee shall cooperate fully with Town and any subsequent Franchisee to assure a smooth transition of services described in this Agreement. Such cooperation shall include, but not be limited to, transfer of computer data, files and tapes; providing routing information, route maps, vehicle fleet information, and lists of Service Recipients and account information. During the last six (6) months of this Agreement, these materials shall be provided to Town within five (5) working days of the request by Town.

18.15 Town Representative - Except as otherwise provided in this Agreement, the City Manager or his or her designee shall be authorized to act on behalf of Town in the administration of this Agreement.

18.16 Franchisee's Records - Franchisee shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, computer files, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to Town for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

Franchisee shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, or a designated representative of any of these officers. Copies of such documents shall be provided to Town for inspection at Town Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Franchisee's address indicated for receipt of notices in this Agreement.

Where Town has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Franchisee's business, Town may, by written request or demand of any of the above-named officers, require that custody of the records be given to Town and that the records

and documents be maintained in Town Hall. Access to such records and documents shall be granted to any party authorized by Franchisee, Franchisee's representatives or Franchisee's successor-in-interest.

18.17 Use of Recycled Products - Franchisee is requested to use, wherever feasible in the performance of services under this Agreement, products or materials which contain recycled materials content. This would include such items as reports on recycled content paper, recycling Containers with recycled plastic content; and use of re-refined oil in collection vehicles.

18.18 Amendment - This Agreement may be amended or modified only by written Agreement duly authorized by Franchisee and City Council and executed by their authorized representatives.

18.19 Paragraph Headings - The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and will not affect the construction or interpretation of any of its provisions.

18.20 Drafting - This Agreement, and each of the provisions hereof, have been reached as a result of negotiations between the parties and their respective attorneys. Each of the parties hereto expressly acknowledges and agrees that this Agreement shall not be deemed to have been prepared by or drafted by any particular party and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party or parties, shall not be employed in the interpretation of this Agreement.

18.21 Severability - Should one or more of the provisions of this Agreement be held by any court to be invalid, void or unenforceable, the remaining provisions shall nevertheless remain and continue in full force and effect, provided that the continuation of such remaining provisions does not materially change the duties or obligations of either party from those duties or obligations originally contemplated by this Agreement.

18.22 Entirety - This Agreement and the Exhibits attached hereto represent the entire Agreement of Town and Franchisee with respect to the services to be provided under this Agreement. No prior written or oral statement, proposal, or Agreement shall alter any term or provision of this Agreement.

18.23 Nondiscrimination - In performing the collection services hereunder, Franchisee shall not discriminate against any person on the ground of race, sex, age, creed, color, religion or national origin.

18.24 Attorney's Fees - In any legal action or proceeding brought for enforcement of this Agreement, the successful party shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which the successful party may be entitled.

#### 18.25 Dispute Resolution

18.25.1 Call for Mediation - If the parties are unable to resolve a dispute arising under this Agreement in a cooperative manner, either party may call for mediation, as hereafter described. The party calling for mediation shall serve notice in writing upon the other party setting forth the question or questions to be mediated. The costs of the mediation shall be borne equally by the parties.

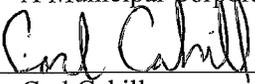
18.25.2 Mediation - Within ten (10) days after delivery of the notice called for under Section 18.23.1, the parties shall select a mutually acceptable mediator from the Judicial Arbitration and Mediation Service ("JAMS") or other mutually agreeable organization. In the event the parties are unable to agree on a mediator, a mediator shall be selected for them at random by the San Francisco office of JAMS. However, either side may reject the proposed mediator and JAMS will select

another. Within ten (10) days thereafter, the parties shall meet with the mediator in a good faith attempt to resolve their dispute. The parties shall continue to meet with the mediator until their dispute is resolved or the mediator indicates that he or she does not believe that further efforts are likely to result in a successful resolution.

- 18.26 Minimum Wages – The parties acknowledge that the services provided by Franchisee do not constitute a "public work" and are not subject to any of the provisions of the Public Works law, California Labor Code Sections 1720-1901, nor of the regulations promulgated thereunder. However, Franchisee shall pay its drivers wages and benefits within the range of the general prevailing rate of wages applicable to the work to be done in Santa Clara County, and contained in labor agreements for similar solid waste services. Specifically, Franchisee shall pay its driver employees at least a minimum wage of thirty dollars and fifty cents (\$30.50) per hour in addition to all standard benefits provided to company employees. This minimum wage shall be increased yearly by the San Francisco, Oakland Metropolitan Area Consumer Price Index (Urban Wage Earners"; 1982-84 = 100) published by the U.S. Dept of Labor. A violation of this provision constitutes default by Franchisee under the terms of this Agreement.
- 18.27 Experienced Driver Hiring Preference – Franchisee shall develop a program, which shall be approved by the City Manager, wherein Franchisee shall first offer employment to drivers who have at least one (1) year of experience providing solid waste truck driving services within the Town of Los Altos Hills.

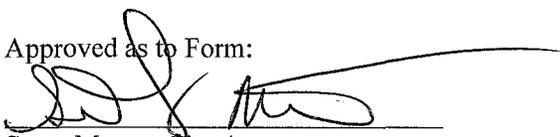
**WITNESS** the execution of this Agreement on the dates set forth below.

Town of Los Altos Hills  
A Municipal Corporation

By:   
Carl Cahill  
City Manager

Date: 5-22-08

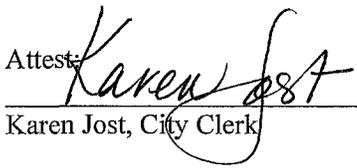
Approved as to Form:

  
Steve Mattas, City Attorney

GreenWaste Recovery, Inc.  
A California Corporation

By:   
Frank Weigel  
General Manager

Date: 5-30-08

Attest:   
Karen Jost, City Clerk

## EXHIBIT A: RECYCLABLE MATERIALS

### "Recyclable Materials" include:

- Aluminum cans
- Aseptic containers (like those used for milk and juice)
- Expanded Polystyrene packaging and packing materials (foam 'peanuts' must be in a plastic bag)
- Glass bottles and jars of all colors
- Paper including newspaper and advertising inserts, magazines, catalogs, envelopes, junk mail and post-it notes, paperboard, flattened cereal and cracker boxes, shoe boxes, gift boxes, paper egg cartons, construction paper, white and colored paper, telephone books, wrapping paper, flattened corrugated cardboard boxes, and brown paper grocery bags; and other similar materials)
- Plastic bags (like those used for dry cleaning, newspapers, groceries or shopping)
- Plastic bottles, jars, tubs and containers (#1-#7)
- Rigid Plastic household items and toys
- Scrap and cast aluminum foil and pans (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item)
- Scrap metal (including car parts that are drained of all fluids) pieces not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item
- Small kitchen appliances (such as toasters)
- Steel cans including "tin" cans, empty aerosol cans, and bimetal containers;
- Used motor oil (in plastic containers with a screw on lid only)
- Used motor oil filters (in sealed plastic bags only)
- Small dry-cell batteries (in sealed plastic bags only)
- Compact fluorescent bulbs (one in each sealed plastic bag only)
- any other materials mutually agreed to by Town and Franchisee, which are separated by the generator from other discards for the purpose of returning them to economic use.

### "Compostable Materials" include:

- Organic materials generated from tree trimming, shrubbery pruning, vegetative garden wastes, dead plants, weeds, leaves, grass clippings, soiled paper, food contaminated paper, food and non-food vegetative matter. Individual tree branches shall not be more than six (6) inches in diameter, or more than six (6) feet long.
- Manure and bedding from the Westwind Community Barn

### "Construction and Demolition Debris" includes:

- debris and other materials resulting from the construction, remodeling or demolition of buildings and other structures; and concrete, asphalt, rock and dirt.

**EXHIBIT B: SERVICE RATES**

**Exhibit B.1. Residential Garbage Collection Service Rates**  
**Effective October 1, 2008**

<b>DISTANCE:</b>	<b>Service Rate</b>	<b>Customers</b>	<b>Totals</b>	<b>% of Homes</b>
<b>0-100 feet</b>				86.3%
20-gallon refuse cart	\$24.20	0	\$0.00	
35-gallon refuse cart	\$33.76	1,607	\$651,027.84	
65-gallon refuse cart	\$67.52	668	\$541,240.32	
95-gallon refuse cart	\$101.28	117	\$142,197.12	
<b>100-200 feet</b>				8.4%
20-gallon refuse cart	\$33.00	0	\$0.00	
35-gallon refuse cart	\$41.80	125	\$62,700.00	
65-gallon refuse cart	\$83.60	88	\$88,281.60	
95-gallon refuse cart	\$125.40	21	\$31,600.80	
<b>200-300 feet</b>				2.9%
20-gallon refuse cart	\$39.60	0	\$0.00	
35-gallon refuse cart	\$48.40	42	\$24,393.60	
65-gallon refuse cart	\$96.80	31	\$36,009.60	
95-gallon refuse cart	\$145.20	6	\$10,454.40	
<b>300-400 feet</b>				1.7%
20-gallon refuse cart	\$46.20	0	\$0.00	
35-gallon refuse cart	\$55.00	32	\$21,120.00	
65-gallon refuse cart	\$110.00	14	\$18,480.00	
95-gallon refuse cart	\$165.00	1	\$1,980.00	
<b>400-500 feet</b>				0.7%
20-gallon refuse cart	\$50.60	0	\$0.00	
35-gallon refuse cart	\$61.60	8	\$5,913.60	
65-gallon refuse cart	\$123.20	7	\$10,348.80	
95-gallon refuse cart	\$184.80	4	\$8,870.40	

**Exhibit B.2. Non-Residential Garbage Collection Service Rates**  
**Effective October 1, 2008**

Bin Charges							
Collection Frequency	Maximum Service Rate						
	.5 cubic yard*	1 cubic yard	2 cubic yards	3 cubic yards	4 cubic yards	6 cubic yards	8 cubic yards
One per week	\$75.00	\$85.00	\$106.00	\$133.00	\$168.00	\$208.00	\$259.00
Two per week	\$100.00	\$128.00	\$168.00	\$210.00	\$266.00	\$322.00	\$402.00
Three per week	\$125.00	\$179.00	\$248.00	\$311.00	\$398.00	\$466.00	\$583.00
Four per week	\$150.00	\$232.00	\$343.00	\$429.00	\$558.00	\$630.00	\$787.00
Five per week	\$175.00	\$325.00	\$439.00	\$591.00	\$725.00	\$787.00	\$984.00
Six per week	\$225.00	\$390.00	\$518.00	\$698.00	\$870.00	\$905.00	\$1,131.00

\*optional service level: .5 CY = approximately (1) 96-gallon wheeled cart service.

Push Distance Charges (in increments of feet)							
Collection Frequency	0' - 10'	11'- 25'	26'-50'	51'-100'	101'-200'	201'-300'	301'-400'
One per week	\$10.00	\$15.00	\$45.00	\$55.00	\$65.00	\$75.00	\$85.00
Two per week	\$20.00	\$25.00	\$90.00	\$110.00	\$130.00	\$150.00	\$170.00
Three per week	\$30.00	\$35.00	\$135.00	\$165.00	\$195.00	\$225.00	\$255.00
Four per week	\$40.00	\$45.00	\$180.00	\$220.00	\$260.00	\$300.00	\$340.00
Five per week	\$50.00	\$55.00	\$225.00	\$275.00	\$325.00	\$375.00	\$425.00
Six per week	\$60.00	\$65.00	\$270.00	\$330.00	\$390.00	\$450.00	\$510.00

Additional service charges:

fee for opening a locked gate	<u><b>\$10.00</b></u>
fee to provide lock	<u><b>\$15.00</b></u>
fee for bin cleaning	<u><b>\$75.00</b></u>

B.3. Debris Box Service Rates

<u>Size</u>	<u>Material</u>	<u>Rate</u>	<u>Weight</u>
10yd.	Mixed Debris or C&D	\$ 340.00	up to 3 tons
20yd.	Mixed Debris or C&D	\$ 405.00	up to 4 tons
40yd.	Mixed Debris or C&D	\$ 545.00	up to 6 tons
	Extra Tons	\$ 58.00	per ton
10yd.	Dirt or Concrete	\$ 505.00	up to 8 tons
	Extra Tons	\$ 45.00	per ton

## EXHIBIT C: PUBLIC EDUCATION AND OUTREACH PLAN

### Start-Up Strategy

GWR is prepared to deliver a smooth and successful transition to the Town's expanded solid waste, recyclable materials and green waste collection program. Ensuring residents are informed, motivated, and "ready to go" by the start date is a critical part of the process. Accordingly, GWR will supplement the Town's efforts with an outreach program that replicates and increases what we have found to be successful in the past. Our goal will be to create program visibility, awareness and support leading up to the critical start-up period. Our focus will be:

**Proactive Start-Up Communications:** We want to compliment the Town's communications efforts. GWR will:

- Comply with all Town communications requirements.
- Create a clear and compelling direct mail piece that articulates changes, enhancements, schedules, and simple instructions to make participating in the expanded program easy.
- Maintain existing website for customer use, with links to additional resources.
- Place program advertisements in local newspaper
- Produce and distribute Cart Selection Cards prior to start-up.
- Produce and distribute service brochures for single family and commercial service units. Poster will be provided to commercial service customers also.
- Support and participate in the towns upcoming events:
  - Town Picnic
  - Hidden Villa Events

**Community Compost Giveaways during Start-Up:** Again, we want to replicate what has worked for us in the past:

- In the months and weeks preceding the start date and during the critical start-up period, GWR will use community compost giveaways as a tool to promote the Town's program.

**Being Visible and Accessible during Start-Up:** There will be many opportunities to be visible and accessible as the Town prepares and rolls out its expanded program. In order to be as visible as possible, GWR will:

- Support, participate and join all Town-sponsored events, as well as community and neighborhood meetings, organized for the purpose of promoting and educating residents relative to the Town's program.
- Support, participate and join all Town-sponsored media initiatives (including the preparation of press kits).

- Hold informational meetings at Town hall to answer questions and pass out informational brochures.
- Ensure GWR's website is on-line with accurate and timely information and links to the Town's website, well before the start date.

**GWR Facilities as a Start-Up Resource:** We will make our facilities, including the processing facilities to be utilized during the term of the contract available in the start-up promotional and public education process:

- With the Town's approval and in tandem with its efforts, we will work to generate and grow media interest by offering facility tours to them and encouraging them to promote the Town's program using these facilities as a focal point.

**Youth Engagement during Start-Up:** Children will be an important focus of our public education start-up efforts:

- In the months and weeks preceding the start date and during the critical start-up period, GWR will increase efforts to promote recycling in the community and particularly in local schools.

**Being a Good Neighbor during Start-Up:** To fulfill this important role during start-up, we will focus on building a partnership, enrolling the rich expertise that resides within our community to ensure the GWR program gets off to the right start. GWR will:

- Look for and enroll community partners to help us conduct public education and community outreach services with particular emphasis on communication with its many constituencies.
- Enlist the creativity, support and partnership of community organizations to help promote the Town's program. (They will have great ideas!)

### **On-Going Public Education & Outreach**

GWR's proposes a year around public education program that is built upon our successes of the past. This program will focus once again on:

- Proactive Communications
- Community Compost Giveaways
- Being Visible and Accessible to Our Community
- Facilities as a Community Resource
- Educating Our Youth
- A Commitment to Being a Good Neighbor

**Proactive Communications:** To complement the Town's on-going communications efforts, GWR will:

- Comply with all Town communications requirements.

- Attend meetings with the Town.
- Produce an annual *Public Education & Outreach Plan* each year and submit it to the Town no later than September 1st each year for the term of the contract
- Create annually at least one clear and compelling direct mail piece (multi-lingual) for all residents. This piece will be professionally created and will articulate changes, enhancements, schedules, and simple instructions to make participating in the residential collection and street sweeping program easy for the Town's residents.
- Create at least four distinct public education outreach campaigns per year focusing on increasing diversion. These campaigns will correspond to the seasons of the calendar year and/or program elements that prove to be challenging for residents to understand (because we see problems in the field that can be corrected through public education). The themes of these campaigns are proposed to be as follows:
  - **FALL** - Reinforce procedures for participating in the program correctly. Special attention will be paid to educating residents to reduce the most common problems we see during the year.
  - **WINTER** -Holiday tree recycling - critical information people need to know in order to participate in the program correctly.
  - **SPRING** - We will review the basics and remind people what's okay and what's not:
    - Set outs placed too early (more than 24hrs) - NOT okay
    - Set out locations
    - What's acceptable and what's not (issue: contamination)
  - **SUMMER** - Reinforce messages emphasized in the spring campaign, and focus on problem areas where non-compliance has become a problem that public education can correct.
- Develop supplementary simple informational pieces to support the above periodically conducted campaigns.
- Maintain an active website for customer use with links to the Town's website.
- Create a YOUTH campaign to engage and educate children about this program.
- Place promotional signs on our trucks to help promote the Town's program.
- Attend meetings with the Town to ensure consistency and coordination in all public education and outreach messages and campaigns.

**Being Visible and Accessible to the Community:** In order to be as visible as possible, GWR will:

- Comply with all Town outreach requirements.
- Support, participate and join all Town-sponsored events, as well as community and neighborhood meetings, to continuously promote the program.
- Participate in community fairs, festivals and special events that provide a good opportunity to promote our program, and make effective use of displays, Town and GWR collateral materials, and

promotional giveaways, wherever we go.

- Support, participate and join all Town-sponsored media initiatives (including any and all preparation of press kits and participation in press conferences).
- Two clean-up events will be held for single family residents in the Spring and the Fall. GWR will develop and distribute outreach materials which may include advertisements in the local newspaper or notices in the customer billing statements.
- Provide on-going supplies of print materials to proven community resources that people turn to for more information - e.g. libraries, Town Hall, etc.
- Ensure GWR's website is well maintained and contains accurate and timely information, with direct links to the town's website.

**GWR Facilities as a Community Resource:** We will make our facilities and the processing facilities to be utilized during the term of the contract available for promotional and public education purposes.

**Youth Engagement:** Children will be an integral part of our on-going public education efforts. GWR will:

- Comply with all Town requirements relative to engaging youth. In particular, we will create and implement on an annual basis, a customized Youth Community Outreach Campaign as required by the Town.
- As with the critical period preceding the start date and during the start-up period, GWR will promote recycling in the community and particularly in local schools.
- Make contact with school leaders to determine the best ways to involve teachers, students and schools as a whole, to engage this special constituency in ways that work for them.
- Ensure all GWR displays are geared to and easily understood by kids.

**Consistently Being a Good Neighbor:** GWR is committed to being a good corporate citizen and good neighbor. We strive to do this everyday in every neighborhood we serve. It is our goal to expand the good neighbor efforts we have found to be successful in the past. GWR will:

- Expand our use of community partnerships to help us conduct on-going public education and community outreach services with particular emphasis on communication with its many constituencies.
- Enlist the creativity, support and partnership of community organizations to help promote the Town's on-going program.
- Continue and expand our efforts to support worthy community organizations through an on-going charitable cash and in-kind contributions program.

Continue and expand our efforts to support community safety and crime prevention programs. This is a natural since our trucks are ever-present in the neighborhoods and communities.

## **EXHIBIT D: TOWN-WIDE CLEAN-UP SERVICES**

### **1. Materials Excluded from Town-wide Clean-ups:**

Franchisee shall not be required to accept the following materials during town-wide cleanups:

- a) tree trimmings which are more than 6" in diameter
- b) more than 30-gallons per household of debris and other materials resulting from the construction or demolition of buildings and other structures
- c) more than 30-gallons per household of concrete, asphalt, rock and dirt
- d) tires
- e) hazardous wastes, including used motor oil

### **2. Materials Included in Town-wide Clean-ups:**

A. Franchisee shall accept all mixed Garbage from residents of Town.

B. Franchisee shall accept from residents of Town, and keep separate for recycling, the following materials:

- a) Recyclable Materials which are collected by the Town's recycling program
- b) clean (unpainted and untreated) dimensional lumber
- c) scrap metal items that do not exceed forty (40) pounds in weight and are not more than two (2) feet long in any dimension
- d) small appliances
- e) white goods that do not contain Freon
- f) white goods that contain Freon
- g) computer monitors and television sets
- h) up to 30-gallons per household of debris resulting from the construction or demolition of buildings and other structures
- i) up to 30-gallons per household of concrete, asphalt, rock and dirt
- j) undamaged bulky goods (to be donated to a non-profit service organization)
- k) textiles (to be donated to a non-profit service organization)

C. Franchisee shall accept from residents of Town, and keep separate for composting, the following materials:

- a) Compostable Materials such as food waste, soiled paper, and flowers
- b) Plant trimmings which are less than 6-inches in diameter, and not more than 6-feet in length
- c) unpainted and untreated wood

## EXHIBIT E: ON-CALL CLEAN-UP SERVICES

Only Residential Service Recipients with garbage service are eligible to use the clean-up services program. Residential Service Recipients can schedule up to two collection days per year at no additional charge. Residential Service Recipients must call at least 48-hours in advance to schedule on-call collection services.

Each on-call collection allows the Residential Service Recipient to schedule pickup of one of the following:

- 1) Garbage and construction debris - collection will occur on the customer's regular Garbage collection day.
- 2) Bulky items - collection will occur on the customer's regular Garbage collection day.
- 3) Compostable Materials and clean wood waste - collection will occur on the customer's regular Compostable Materials collection day.

### 1. Garbage and Construction Wastes

- a) Loose items must be bagged, bundled or boxed. The total pile size must not exceed 4-feet, by 4-feet, by 8-feet.
- b) Construction debris (including concrete, asphalt, rock, dirt and painted wood) must be containerized, with individual boxes not weighing more than 40 pounds, and with a total weight not to exceed 250 pounds.

### 2. Bulky items including:

- a) White goods (appliances) which do not contain Freon
- b) White goods (appliances) which contain Freon (refrigerators and air conditioners)
- c) Computer monitors and television sets
- d) Worn and damaged furniture
- e) Reusable (undamaged) household goods, toys and textiles to be donated to a non-profit service organization

### 3. Compostable Materials and Wood Waste

- a) Compostable Materials and clean (unpainted and untreated) wood must be bundled, boxed or in a trash can.
- b) Branches must be less than 6-inches in diameter
- c) Bundled piles must not exceed 6-feet in length, and not weigh more than 50 pounds each. The total pile size must not exceed 4-feet, by 4-feet, by 8-feet.

No stumps, poison oak, or bug-infested material will be accepted.

No loose piles or plastic bags will be collected.

### Restricted/Hazardous Items

No car parts with oil or other fluid residues will be accepted.

No hazardous wastes, including used motor oil will be collected.

*Unused clean-up days are not transferable from one calendar year to the next.*

## **EXHIBIT F: FIRE PREVENTION SERVICES**

### **1. Materials Included in Fire Prevention Services:**

Franchisee shall accept from all residents of the Town of Los Altos Hills the following materials on a monthly basis, as Fire Prevention Services:

- a) tree trimmings
- b) shrubbery prunings
- c) plant materials from yard cleanups
- d) wood from fences, decks and structures

Pressure treated wood or other wood containing toxic chemicals (such as creosote) shall not be accepted.

Fire Prevention Services are scheduled for the 3<sup>rd</sup> Saturday of each month, unless otherwise mutually agreed to by Town and Franchisee.

GreenWaste Recovery will be paid by Town the amount of \$2,840.00 per event held, plus \$29.00 per ton of materials recovered.

## EXHIBIT G: STREET SWEEPING

The following street segments shall be swept once each month:

Altamont Road, from Moody Road to Page Mill Road	[about 9,330 feet]
Anacapa Drive, from Visciano Road to Ascension Drive	[about 2,520 feet]
Arastradero Road, from Page Mill Road north to Town Boundary	[about 1,425 feet]
Arastradero Road medians at I-280	[about 906 feet]
Black Mountain Road, from Natoma Road to Altamont Road	[about 2,980 feet]
Blandor Way, from Magdalena Avenue to Olive Tree Lane	[about 650 feet]
Briones Way, from Altamont Road to Via Ventana	[about 3,100 feet]
Canario Way, from Visciano Road north to end	[about 3,650 feet]
Conception Road, from Fremont Road to Purissima Road	[about 7,570 feet]
Corte Madera Lane, from Conception Road west to end	[about 1,100 feet]
Dawson Drive, from Magdalena Avenue west to end	[about 5,000 feet]
Dianne Drive, from O'Keefe Lane north to end	[about 2,340 feet]
Duval Way, from Robleda Road southwest to end	[about 2,320 feet]
Edith Road, from Fremont Road to bridge	[about 400 feet]
El Monte Avenue, from Summerhill Avenue to Elena Road	[about 14,000 feet]
Elena Road	[about 14,850 feet]
Esperanza Drive	[about 5,270 feet]
Fawn Creek Court, from Page Mill Road east to end	[about 1,350 feet]
Foothill Lane, from Elena Road north to end	[about 2,000 feet]
Fremont Pines Lane, from Fremont Road south to end	[about 1,160 feet]
Fremont Road, from Burke Road to La Paloma Road	[about 3,570 feet]
Horseshoe Court, from Arastradero Road south to end	[about 900 feet]
Horseshoe Lane, Horseshoe Court west to end	[about 1,480 feet]
La BARRanca Road, from Purissima Road to Elena Road	[about 4,050 feet]
La Cresta Court, from La Cresta Drive to end	[about 3,330 feet]
La Cresta Drive, from south end to Arastradero Road	[about 12,230 feet]
Liddicoat Circle	[about 6,816 feet]
Lupine Road, from Page Mill Road west to end	[about 2,320 feet]
Magdalena Avenue, from Eastbrook Avenue to Camino Hermoso	[about 5,230 feet]
Manuella Road, from Fremont Road to Rancho Manuella Road	[about 2,915 feet]
Moody Road, from Elena Road to Tanglewood Lane	[about 6,000 feet]
Murietta Lane, from Moody Road south to end	[about 1,720 feet]
Natoma Road, from Elena Road to Altamont Road	[about 3,400 feet]
Newbridge Drive, from La Paloma east to end	[about 1,480 feet]
Nina Place, from La Cresta Drive west to end	[about 1,520 feet]
O'Keefe Lane, from El Monte Road west to end	[about 4,336 feet]
Paseo del Roble, from Page Mill Road to Page Mill Road	[about 7,430 feet]
Purissima Road, from Robleda Road to Arastradero Road	[about 10,668 feet]
Roble Ladera	[about 3,580 feet]
Roble Venento Lane, from Conception Road west to end	[ about 600 feet]
Robleda Road, from Fremont Road to Elena Road	[about 5,555 feet]
Stonebrook Drive, from El Monte Road to Teresa Drive	[about 3,300 feet]
Story Hill Lane, from Page Mill Road southwest to end	[about 3,150 feet]
Summerhill Avenue, from El Monte Road to Nicole Lane	[ about 300 feet]
Taaffe Road, from Elena Road to Altamont Road	[about 3,060 feet]
Via Venetana, from Page Mill Road east to end	[about 4,100 feet]
Viscaino Court	[about 4,300 feet]
Viscaino Road, from Conception Road to Purissima Road	[about 6,040 feet]
Via Serena, from O'Keefe Lane north to end	[about 1,400 feet]
Westwind Way, from Conception Road to La Paloma Road	[about 1,930 feet]
<b>Total, estimated to be almost 200,000 feet.</b>	

## EXHIBIT H: REPORTING REQUIREMENTS

1. Quarterly Reports.

Franchisee shall submit, within fifteen (15) calendar days following the end of each three month period, quarterly reports on Garbage collection and disposal, and on Recyclable Materials collection, on Compostable Materials collection, and Town-wide Clean-up events. This report information shall meet the reporting requirements of the California Integrated Waste Management Act, as such Act may from time to time be amended. In addition to the information required by the California Integrated Waste Management Act, each quarterly report shall include the information described in Section 2 of this EXHIBIT H.

1.1 Quarterly Summary.

The quarterly report shall contain a summary of the information reported pursuant to Section 1 of this EXHIBIT G. Reports shall also contain a description of milestones achieved; staffing levels; and a log of special occurrences; and any other relevant information, including details of any Town-wide Clean-ups which occurred during that quarter.

1.2 Sales of Recyclable Materials.

The quarterly report shall contain a quarterly Recyclable Materials sales statement showing: type of material, the name of each buyer, date of sale, terms of sale, quantity sold (in tons), and net sales (net sales means gross sales minus both sales returns and sales allowances). Tonnages sold at different prices during the quarter must be reported separately. Adjustments to previous quarters' sales (such as for contaminants) shall be reported on the current statement as a reduction in sales and referenced to the statement for the prior quarter in which the original sale was actually reported.

1.3 Contaminants.

The quarterly report shall include a statement of the weight (in tons) of contaminants in the Recyclable Materials collected during the quarter, the weight of the contaminants expressed as a percentage of the Recyclable Materials collected, and a description of the disposal methods for the contaminants.

1.4 Problems Encountered.

The quarterly report shall include a narrative account of problems encountered during the reporting period in connection with Recyclable Materials collection (including scavenging), processing and/or marketing, and the actions taken by Franchisee in response. The narrative shall include a description of problems relating to non-collection because of contamination in the Recyclable Materials Containers or because of blocked access. The narrative shall also include a description of Recyclable Materials rejected for sale after processing (by type of material and tonnages) reason(s) for rejection, and Franchisee's disposal method for the rejected load.

1.5 Public Education Activities.

The quarterly report shall include a description of the public education and community relations activities performed by Franchisee during the quarter and Franchisee's evaluation of the success of such activities in promoting the Program or in addressing problems encountered by Franchisee.

1.6 Telephone Log.

The quarterly report shall contain a copy of Franchisee's telephone and complaint log, and include the name and address of each caller, the reason for the call, details on each complaint and a description of how each complaint was resolved.

1.7 New Service Recipients.

The quarterly report shall contain a listing of all new Service Recipients, including their name, address and level of service.

1.8 Missed Pickups.

The quarterly report shall contain a written record of all calls related to missed pickups, and a description of the response to each call.

2            Compost Quality Reports.

On April 1 and October 1 of each year of this Agreement, Franchisee shall provide Town with copies of Laboratory reports on the quality of the compost materials produced for the compostable materials collected in Town, and on the compost materials provided to Town as required in Section 9.1 of this Agreement.

3            Annual Reports.

2.1            Annual Report Submitted By Franchisee.

Within 30 days following the end of each Rate Year, Franchisee shall provide Town with an annual report containing: a summary report of the quarterly reports for the year, including information on the total annual quantities of Garbage collected and disposed, Recyclable Materials collected, and Compostable Materials collected.

The annual report shall also contain a discussion of public awareness activities and their impact on recycling participation and recovered amounts, and a discussion of highlights and other noteworthy program experiences, along with measures taken to resolve problems, increase efficiency, and increase participation.

Franchisee shall prepare and submit to Town, no later than March 31 of each year of this Agreement, the Annual Report required by the California Integrated Waste Management Act, for Town to receive and submit to the California Integrated Waste Management Board.

2.2            Declarations.

Each year of the term of this Agreement, beginning in the year 1998, Franchisee shall submit to Town, as an attachment to the Annual Report, a declaration describing the current status of any criminal or civil litigation pending against either Franchisee's parent company or any subsidiaries of the parent company which relates to Garbage handling, collection, recycling or disposal. Also, Franchisee shall submit declarations of the current status of any pending criminal or civil litigation relating to the activities of Franchisee, Franchisee's parent company or any subsidiary naming any current officer of the parent company or any subsidiary company as a defendant. For these declarations "current officers" shall be defined to include those individuals who are presently serving or who have served as an officer of the parent company or the subsidiary within the two (2) years immediately preceding the date of the report.

2.3            Vehicle Fleet Information.

Each year of the term of this Agreement, Franchisee shall submit to Town, as an attachment to the Annual Report, all information required by Section 7.1.6 of this Agreement.

3            End of Agreement Reports.

Reports covering the last period of this Agreement will be due following the end of collection services, on the schedule stated in this EXHIBIT H. Therefore, the last Compensation Payment to Franchisee by Town shall not be made until these reports are delivered to Town.

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