
SERVICE AGREEMENT

by and between the

**NORTHEAST MARYLAND
WASTE DISPOSAL AUTHORITY**

and

dated as of

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SERVICE AGREEMENT

THIS SERVICE AGREEMENT (the “Agreement”) is made as of this ____ day of _____, 2025 (the “Effective Date”) between the Northeast Maryland Waste Disposal Authority (the “Authority”) and _____ (the “Company”). The Authority and the Company are each individually referred to herein as a “Party” and are collectively referred to herein as “Parties”.

RECITALS

- A. The Authority is a body politic and corporate and a public instrumentality of the State of Maryland created and existing under the Northeast Maryland Waste Disposal Authority Act, codified as Subtitle 9 of Title 3 of the Natural Resources Article of the Annotated Code of Maryland.
- B. Baltimore City, Maryland (“the City”) owns and operates the Back River Waste Water Treatment Plant (the “BRWWTP”) and has requested that the Authority provide for the acceptance of the minimum guaranteed daily amount of Biosolids leaving the centrifuges, including transportation and processing; the marketing and Beneficial Use of the Digested Biosolids.
- C. The BRWWTP is situated near 695 and Eastern Avenue (Rte. 150) on the east side of Baltimore County, Maryland. The 180 million gallons per day (MGD) flow BRWWTP is owned by the City and operates in accordance with federal regulations 40 CFR Part 503 and state regulations COMAR 26.04.06. The BRWWTP operates pursuant to Maryland Department of the Environment Discharge Permit Number 99-DP-1421.
- D. The Company is a [STATE] Corporation.
- E. The Company has demonstrated an ability to provide at least 15% Minority Business Enterprise (“MBE”) and/or Women Business Enterprise (“WBE”) and committed to register with the Mayor’s Office of Small and Minority Business Advocacy and Development.
- F. The Authority will sign a mirror agreement with the City, substantially incorporating the same terms and conditions as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each to the other contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS AND RULES OF INTERPRETATION

SECTION 1.1 **Definitions**

Capitalized terms used in this Agreement have the meanings set forth in Schedule 1 and include the plural as well as the singular.

SECTION 1.2 **Rules of Interpretation**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) All reference in this Agreement to designated “Articles,” “Sections,” “Schedules” and other subdivisions are to the designated Articles, Sections, Schedules and other subdivisions of this Agreement.

(b) Words of the masculine gender include correlative words of the feminine and neuter genders.

(c) The table of contents and the headings or captions used in this Agreement are for convenience of reference only and do not define, limit or describe any of the provisions hereof or the scope or intent hereof.

(d) References to agreements or contracts include all amendments, modifications and supplements thereto.

ARTICLE 2
INITIAL TERM, EXTENSIONS AND INITIAL SERVICE DATE

SECTION 2.1 **Initial Term**

The “Initial Term” of this Agreement shall be the period beginning on the Effective Date and shall continue to (and include) the fourth anniversary of the Initial Service Date. The contract may be extended, at the sole option of the Authority, for two (2), one (1) year periods. The pricing for any option term will be in accordance with the fee structure as set forth in the Company’s proposal and incorporated into this Agreement in accordance with the Service Fee below.

SECTION 2.2 **Extensions**

(a) Unless at least 120 days before the end of the Initial Term the Authority gives written notice to the Company of its intent not to extend the term of this Agreement, this Agreement shall automatically extend for an additional period of one (1) year (the “First Extension Period”) beginning on the day following the last day of the Initial Term and continuing to (and including) the first anniversary of the first day of the First Extension Period.

(b) Unless at least 120 days before the end of the First Extension Period the Authority gives written notice to the Company of its intent not to extend the term of this Agreement, this Agreement shall automatically extend for an additional period of one (1) year (the “Second Extension Period”) beginning on the day following the last day of the First Extension Period and continuing to (and including) the First anniversary of the first day of the Second Extension Period.

(c) Unless at least 120 days before the end of the Second Extension Period the Authority gives written notice to the Company of its intent not to extend the term of this Agreement, this Agreement shall automatically extend for an additional period of one (1) year (the “Third Extension Period”) beginning on the day following the last day of the Second Extension Period and continuing to (and including) the First anniversary of the first day of the Third Extension Period.

SECTION 2.3 Initial Service Date

The “Initial Service Date” shall be the date specified in a written notice from the Authority to the Company on which the Company shall begin performing its obligations under this Agreement. The Parties agree that the service must be ready by April 1, 2025. However, service will not commence until June 30, 2025 (the “Initial Service Date”). The Company will have until December 31, 2025, to finalize all permits and install equipment for the Facility if the Facility is not able to receive Biosolids on June 30, 2025. During such transition period, the Company shall continue to receive Biosolids and process the same as described in Schedule 2B herein.

ARTICLE 3 OBLIGATIONS OF THE COMPANY WITH RESPECT TO BIOSOLIDS

SECTION 3.1 Company Obligation to Process, Transport and Market Biosolids - General

Beginning on the Initial Service Date and continuing throughout the Term, the Company will accept the minimum guaranteed daily amount of Biosolids leaving the BRWWTP centrifuges; will transport the biosolids to the Company’s Facility and cause the Beneficial Use of the Biosolids. **This acceptance and processing will include companies and service providers in the region such that the value of the project meets a minimum 15% MBE participation rate and/or WBE participation rate.**

SECTION 3.2 Company Obligation to Operate and Maintain Class A Composting and Process Biosolids to Class A Product

(a) The Company will accept responsibility for the minimum guaranteed daily amount of Biosolids leaving the BRWWTP centrifuges at any time during the Delivery Hours in accordance with this Agreement. The Company shall be obligated to accept such quantity of Biosolids and shall not be relieved of its acceptance obligations due to any change or fluctuations from time to time in the quantity or rate of delivery of Biosolids. The Company will be responsible for the collection of the Digested Biosolids from the BRWWTP during the business hours listed in 3.2 (b). After the Biosolids have been accepted, the Company shall be deemed to have taken title to, risk in and responsibility for all Biosolids.

(b) The “Delivery Hours” shall be from 7:00 a.m. until 6:00 p.m. Monday through Friday and from 8:00 a.m. until 4:00 p.m. Saturday. Upon prior notice to the Company (which may be telephonic if necessary in light of operating circumstances), the Delivery Hours may be modified to reflect the operating hours of the BRWWTP.

(c) The Company will permit, operate and maintain all equipment used in the Facility, regardless of ownership.

(d) The Company shall be prepared to provide all labor and equipment necessary for the transportation of biosolids from BRWWTP. The transportation component of the Service will be performed by third-party contractors and not by staff of the Company.

(e) The Company shall operate and maintain the composting system, or cause the same to be operated and maintained, so that the outgoing material meets PFRP, VAR 40 C.F.R. Part 503.32 and 503.33 for Class A Biosolids and applicable requirements of the State of Maryland. The Company will conduct the necessary chemical physical and biological analysis required by State and Federal regulations to prove that Class A Biosolids have met the requirements to be Class A.

(f) The Company must accept Biosolids tendered for delivery from the BRWWTP, to it by or on behalf of the Authority hereunder, and operate and maintain the composting system, or cause the composting system to be operated and maintained. The Company will not be excused from this obligation for any reason, including the occurrence of an Uncontrollable Circumstance. The Company may, however, be entitled to additional compensation for Uncontrollable Circumstances as provided in Article 9.

SECTION 3.3 Company Obligation to Remove, Transport and Market Class A Biosolids

(a) The Company shall provide sufficient, Maryland Department of the Environment (MDE) and Maryland Motor Vehicle Administration (MVA) approved vehicles for the removal of a portion of the Digested Biosolids generated at the BRWWTP. The Digested Biosolids shall be received from BRWWTP that are owned by, or under contract to, the Company. The Company shall load the vehicles on an ongoing basis as required and promptly remove such trailers from the BRWWTP. In no event shall the Company store any materials at the BRWWTP.

(b) The Company shall be responsible for keeping such locations in a neat and orderly condition free from rubbish, vehicle leakage and undue noise. The Company shall be responsible for the security of its equipment; vehicles and personnel located at the BRWWTP and shall be responsible for the actions of all of its personnel or subcontractors who are at the BRWWTP for the purpose of performing the Company’s obligations hereunder. The City, the Authority and their respective representatives shall have the right to inspect the trailers, vehicles and any other equipment or materials of the Company or its subcontractors that are located at the Facility for the purpose of confirming performance by the Company of its obligations hereunder.

(c) In the performance of its obligations at the Facility, the Company shall comply with all applicable rules and regulations, including regulations regarding vehicular traffic on public roads.

(d) The Company shall transport or cause to be transported all Class A Biosolids from the Facility either directly to a customer for Beneficial Use or to an interim processing, distribution or storage facility in accordance with this Agreement. The Company may not transport Class A Biosolids to any Disposal Facility without the prior written approval of the Authority. Notwithstanding the foregoing, in the event that an Uncontrollable Circumstance precludes the Beneficial Use of the Class A Biosolids, the Company may transport Class A Biosolids to a facility capable of accepting and processing such material in accordance with Applicable Law if the Company provides prior notice to the Authority by telephone (and follows such prior notice with a written report) describing the facility to be used by the Company and the amount of Class A Biosolids affected. If the Company transports Class A Biosolids to a facility pursuant to this Section 3.3 the Company shall bear sole responsibility for: (i) obtaining any necessary modifications or approvals to or under the Sewage Sludge Utilization (SSU) Permits such that the Company's actions under this Section 3.3 do not result in a violation of such SSU Permits and (ii) taking all action necessary to ensure that such action does not result in a violation of Applicable Law by the Company, the City or the Authority. The Company shall use its best efforts to overcome the condition precluding the Beneficial Use of the Class A Biosolids as soon as possible and, thereafter, promptly resume Beneficial Use of the Class A Biosolids.

(e) The Company shall use covered MDE and MVA approved vehicles that are under contract to the Company to transport all Biosolids. All vehicles shall be equipped with tight-fitting seals or covers. The Company shall cause all Required Insurance applicable to such vehicles and trailers to be maintained throughout the Term and cause all such vehicles and trailers to be operated in accordance with the applicable safety procedures and rules and regulations of the State of Maryland. Upon the request of the Authority, the Company shall permit an independent consultant to inspect any vehicles (and associated maintenance records) used by or on behalf of the Company to transport Biosolids hereunder. The Company shall maintain vehicles in good repair and orderly condition to protect against deterioration and mechanical failure. The Company shall cause all vehicles used by or on behalf of the Company to transport Biosolids hereunder to be clean and sanitary.

(f) The Company shall operate the motor vehicle scales at the Facility and to weigh and record all Digested Biosolids accepted at the Facility and all Class A Biosolids removed from the Facility by or on behalf of the Company under this Agreement.

SECTION 3.4 Obligation to Cause Beneficial Use of Biosolids

(a) The Company shall cause all Class A Biosolids to be Beneficially Used or, if permitted by the terms of this Agreement, to be otherwise disposed of, in each case, in accordance with this Agreement.

(b) The Company shall acquire, design, construct, equip, test, operate and maintain all equipment necessary to cause all Class A Biosolids to be Beneficially Used.

(c) The Company shall be responsible for all aspects of the ownership, permitting, security, operation and maintenance of the Company's equipment. The Company shall obtain all labor, materials, utilities, supplies and other materials necessary to own, permit, secure, operate and maintain the labor and equipment necessary to fulfill its obligations under the

Agreement. The Company shall cause the equipment to operate at such times as to be capable of causing all Class A Biosolids produced at the Facility to be fully prepared for Beneficial Use. The Company shall cause the Company's equipment to be constructed, operated and maintained such that no Biosolids odor gives rise to a Nuisance Condition.

(d) Representatives or designees of the Authority and the City shall have the right to visit or inspect any Company processing, storage and distribution facility during normal operating hours upon giving the Company reasonable prior notice.

ARTICLE 4 MARKETING

SECTION 4.1 Marketing

(a) The Company shall pay all expenses incurred in connection with the processing and marketing of Class A Biosolids, including, but not limited to, retaining professional personnel to identify markets for the product, promotional expenses and expenses to store and deliver the product to purchasers. The Company shall be solely responsible for the marketing of all Class A Biosolids and neither the City nor the Authority shall be obligated to participate in, or in any way assist the Company, in the marketing of Biosolids.

(b) In no event shall the Company or its subcontractors use the name or seal of or a geographic reference to, the Authority or the City in connection with any of its marketing materials or tactics or its media placement or advertisements without the prior written consent of the Authority and the City which consent may be withheld for any reason.

ARTICLE 5 GENERAL COMPANY OBLIGATIONS

SECTION 5.1 Permits

The Company shall obtain and maintain, or cause to be obtained and maintained, all necessary local, state and federal permits, exemptions and governmental approvals for (i) accepting and transporting Biosolids delivered to it hereunder, (ii) accepting and processing Specification Biosolids, (iii) marketing and disposing of Accepted Biosolids delivered to the Company hereunder and (iv) performing all of its other obligations under this Agreement. The Company is required to obtain the permits listed in Section 6.2. as they relate to the construction of a new Facility, if applicable.

SECTION 5.2 Applicable Law

The Company shall perform all of its obligations hereunder in accordance with Applicable Law and shall cause any subcontractor or other Person engaged by or on behalf of the Company to perform any Company obligation hereunder to so perform in accordance with Applicable Law. The Company shall not be deemed to have breached its obligations under this Section 5.2 if the Company is contesting the Applicable Law in good faith by appropriate proceedings conducted with due diligence and Applicable Law permits continued performance by the Company of all of its obligations hereunder pending resolution of the contest.

SECTION 5.3 Reports and Records

The Company shall prepare and deliver to the Authority monthly reports relating to the performance of its obligations hereunder. Reports shall be in the form and include such information and copies of records as is requested by the Authority and may include, by way of example and not limitation: (i) the quantity and price of all reagents added to the Accepted Biosolids, (ii) information about the testing of the Class A Biosolids, the quantity of reagents and all chemical and biological analysis, (iii) the amount of Class A Biosolids distributed for Beneficial Use, or a Disposal Facility during the month, (iv) the disposition of all Class A Biosolids produced by the Company during the month (v) copies of inspection reports, notices of violation, fines, penalties from the State of Maryland and any other regulatory agency having jurisdiction over handling and disposition of the Biosolids, and information regarding any violations or the occurrence of events which will constitute violations of any permits, exemptions or other governmental approvals required to be maintained by the Company or its subcontractors in order to perform the Company's obligations hereunder that occur during such month, (vi) any claims, or the occurrence of events which will result in claims, against any policy of Required Insurance during such month, (vii) any event occurring during such month which has or is likely to have a material adverse impact upon the Company or the performance of its obligations hereunder, and (viii) any other information reasonably requested by the Authority. The form, level of detail and supporting documentation to be provided with each monthly report shall be as reasonably required by the Authority.

SECTION 5.4 Company Contact Personnel

The Company shall designate a project manager who will be responsible for all Company activities during normal business hours and contact personnel for emergency or after-hours operational matters.

SECTION 5.5 Communication

The Company shall communicate with the Authority and the City and their designees on a routine basis to ensure the day-to-day coordination of activities between the Company, the City and the Authority. Upon request of the Authority or the City, the Company shall meet with the Authority and the City to address issues relating to the performance of this Agreement.

SECTION 5.6 Books and Records

The Company shall maintain books, records and accounts reflecting all matters affecting amounts owed by or to the Company under this Agreement, and all matters relating to the acceptance, transporting, processing and marketing, distribution or disposal of Biosolids under this Agreement. All such books, records and accounts shall be maintained in accordance with generally accepted accounting principles, shall accurately, fairly and in reasonable detail reflect all the Company's dealings and transactions under this Agreement and shall be sufficient to enable those dealings and transactions to be audited in accordance with generally accepted auditing standards. The Company shall make all such books, records and accounts available for inspection and audit by authorized representatives of the Authority at all reasonable times. All such books, records and accounts shall be kept by the Company for at least two (2) years (or any longer period required by Applicable Law) following the termination of this Agreement.

SECTION 5.7 Subcontractors

The Company may, in its sole discretion, contract for or hire the services of any qualified Person for the performance of all or any portion of its obligations under Articles 2, 3 and 4 of this Agreement. The Company shall notify the Authority of the name and scope of work for any such subcontractor and upon the reasonable request of the Authority, the Company shall provide the Authority with a copy of any such contract. The Company shall ensure that each of its subcontractors complies with all employment policies and practices required of the Company under this Agreement for so long as such subcontract is in effect. If as a result of poor performance, financial insecurity or other reasonable concerns the Authority determines that a subcontractor should not reasonably continue to perform obligations on behalf of the Company hereunder, the Authority shall so notify the Company of its position and the reasons therefore and the Company shall promptly undertake the replacement of such subcontractor; provided, however, that nothing herein shall obligate the Authority to monitor the activity of the Company or any of its subcontractors and the failure of the Authority to monitor, discover or notify the Company of any activity or performance failure by the Company or any subcontractor shall not result in liability of the Authority to the Company, any subcontractor or any other Person nor relieve the Company of any of its obligations hereunder. In no event shall the Company be relieved of any of its obligations hereunder as a result of any contract or any action or inaction by any subcontractor.

SECTION 5.8 Company Staff

The Company shall maintain an adequate staff, trained for, with experience in, and, licensed or certified, if required, to perform the Company's obligations under this Agreement.

SECTION 5.9 Other Company Business

During the Term, the Company may engage in other activities or businesses so long as such activities do not interfere with the ability of the Company to perform its obligations hereunder. In no event shall the Company be relieved of its obligations hereunder due to any activity or commitment of the Company related to the other activities or business described in this Section 5.9.

SECTION 5.10 Contract Affidavit

The Company shall execute and deliver to the Authority a Contract Affidavit in the form of Schedule 4 hereto on or before the Effective Date.

SECTION 5.11 Odor Obligations

The Company shall perform its obligations under this Agreement in such a manner as to not create a Nuisance Condition with regard to odor as determined by a competent regulatory authority agency, under local, state and other Applicable Law.

ARTICLE 6
OBLIGATIONS OF THE AUTHORITY

SECTION 6.1 **Biosolids to be made Available by the Authority**

Biosolids at BRWWTP

(a) The Authority shall cause the City to supply Digested Biosolids from the BRWWTP to the Company that: (i) on a monthly average contain a concentration of 18% to 22% total solids, (ii) meet Table 3 (Pollutant Concentrations) requirements of 40 CFR Part 503 regulation and meet State of Maryland metal and polychlorinated biphenyls (“PCBs”) requirements for general distribution, (iii) do not constitute a “hazardous waste” under Applicable Law, (iv) do not contain PCBs in amounts equal to or greater than 50 mg/kg (dry weight basis), and (v) do not contain any radioactive isotopes at levels that are regulated under Applicable Law. Digested Biosolids that meet the criteria listed in this Section 6.1(a) are referred to as “Specification Biosolids”. The Authority makes no representation that Digested Biosolids have a particular viscosity or other characteristic, level or quality except as specifically provided in this Section 6.1(a).

SECTION 6.2 **Permits**

The Company is responsible for obtaining all necessary permits to satisfy the Company’s obligations and its performance under this Agreement.

SECTION 6.3 **Annual Budget**

Pursuant to the approval of the assignment agreement by the City of Baltimore Council, each fiscal year, the Authority shall cause the City to include in its annual budget or take such other action to provide for payment to the Authority of, sufficient funds to pay all amounts due to the Company under this Agreement, assuming performance by the Parties of their respective obligations hereunder. The fiscal obligations of the City are subject to the availability of funds appropriated therefor by the City.

ARTICLE 7
PERFORMANCE DAMAGES

SECTION 7.1 **Company Performance Damages - General**

(a) In the event the Company fails to accept and process Specification Biosolids when tendered for, by or on behalf of the Authority pursuant to this Agreement or as a result of its failure to perform an obligation under this Agreement, the Authority shall have the right to take the necessary action to cure the failure, including the right to remove or cause the removal of Specification or Class A Biosolids, as necessary, from the Facility and to dispose of such Biosolids. The Company shall pay to the Authority as performance damages in respect of its performance failure an amount equal to the sum of (i) the costs incurred by or on behalf of the Authority to so store, remove, transport and dispose of such Biosolids less the amount that would have been payable under this Agreement if such Biosolids had been accepted, processed and marketed by the

Company, plus (ii) any additional costs, damages, penalties or fines incurred by the Authority as a result of such Company non-performance. The Authority shall be under no obligation to utilize any particular manner or method of storage, removal, transportation, storage or disposal and may utilize City storage, removal, transportation or disposal services or facilities if it so elects and any costs or damages payable to the City as a result thereof shall constitute costs of the Authority for the purposes of clause (i) above.

(b) The Company shall immediately advise the Authority by telephone (promptly confirmed in writing) of any events or conditions that will preclude or diminish its ability to perform any of its obligations hereunder to accept, process, market and transport Biosolids in a timely manner, the effect of such event or condition and the probable duration. The Company shall use its best efforts to overcome any such condition and to promptly resume performance of its obligations in accordance with this Agreement.

SECTION 7.2 Performance Damages - Specific

(a) If any quantity of Class A Biosolids, fails to meet pathogen reduction or pH standards for Class A Biosolids, the Authority may allow the Company to market the material as Class B sludge, however, an amount equal to one half of the amount of the Processing Fee per ton shall be charged as Performance Damages in calculating the Service Fee.

(b) If the Company fails to promptly and completely clean up any spill or leakage, the Authority shall have the right to take necessary action. All costs incurred shall be charged as Performance Damages in calculating the Service Fee, as set forth in Section 8.1 below.

ARTICLE 8 PAYMENTS

SECTION 8.1 Service Fee for Baltimore City

(a) As consideration for the performance by the Company of all of its obligations hereunder, the Authority shall pay the Company the monthly Service Fee for the Guaranteed Tonnage, which shall be an amount, calculated for a particular month as follows:

$$SF = PF + PPC + UCC - PD$$

Where:

“SF” means the Service Fee

“PF” means Processing Fee

“PPC” means Pre-approved Pass-through Cost, such as the Authority Fee

“UCC” means any Uncontrollable Circumstances Costs

“PD” means any Performance Damages

(b) The monthly Processing Fee (PF) for each calendar month during the Term shall be an amount equal to [\$168.00] multiplied by the number of tons accepted.

(c) The monthly Uncontrollable Circumstances Costs (UCC) for each calendar month during the Term shall be the amount of Actual Costs incurred by the Company during such month with respect to any Uncontrollable Circumstance.

(d) The monthly Performance Damages (PD) for each calendar month during the Term shall be the amount owed by the Company to the Authority with respect to performance failures during such month pursuant to Article 7.

(e) The components of the Service Fee to be adjusted for inflation shall be adjusted as provided in Schedule 6.

(f) The Company will invoice the Authority for any Incremental Tonnage accepted at the Facility, following the formula above substituting the PF for the ITPF which shall be an amount, calculated for a particular month as follows:

$$SF = ITPF + PPC + UCC - PD$$

Where:

“ITSF” means the Service Fee

“ITPF” means Incremental Tonnage Processing Fee

“PPC” means Pre-approved Pass-through Cost, such as the Authority Fee

“UCC” means any Uncontrollable Circumstances Costs

“PD” means any Performance Damages

(g) The monthly Excess Tonnage Processing Fee (PF) for each calendar month during the Term shall be an amount equal to [\$168.00] multiplied by the number of tons accepted above the guaranteed amount.

(h) The monthly Uncontrollable Circumstances Costs (UCC) for each calendar month during the Term shall be the amount of Actual Costs incurred by the Company during such month with respect to any Uncontrollable Circumstance.

(i) The monthly Performance Damages (PD) for each calendar month during the Term shall be the amount owed by the Company to the Authority with respect to performance failures during such month pursuant to Article 7.

(j) The components of the Service Fee to be adjusted for inflation shall be adjusted as provided in Schedule 6.

SECTION 8.2 Invoices

All amounts in respect of the Service Fee for a calendar month shall be invoiced by the Company to the Authority, with a Copy to the City, on or before the fifth Business Day of the immediately succeeding calendar month, but in no event earlier than the first Business Day of such succeeding calendar month. Such invoice shall contain the amounts, methods and basis of calculation and appropriate supporting documentation for each component of the Service Fee. The Authority shall notify the Company in writing within five (5) Business Days following receipt of the invoice of any dispute related thereto. The Authority shall pay the undisputed portion of the Company's invoice on or before the twenty-fifth day (or next Business Day if such twenty-fifth day is not a Business Day) following the receipt of the Company's invoice. Any dispute regarding the invoice shall be resolved as provided in Section 15.14.

Any amounts payable under this Agreement that are not paid when due in accordance with this Agreement shall, unless otherwise specifically provided, bear interest, to the extent permitted by Applicable Law, at the Late Payment Rate.

All Company invoices and statements shall be delivered by hand or mailed first class, postage prepaid, to:

Northeast Maryland Waste Disposal Authority
Tower II - Suite 402
100 South Charles Street
Baltimore, MD 21201-2705
Attention: Accounts Payable
Phone: 410-333-2730 Fax: 410-333-2721
Email: authority@nmwda.org

With a Copy to:

City of Baltimore, Bureau of Water and Wastewater, Fiscal Services
300 Municipal Building
200 North Holiday Street
Baltimore, MD 21202
Attention: Chief of Fiscal Services
Phone: 410-396-5182 Fax: 410-396-0955
Email: water@baltimorecity.gov

ARTICLE 9
UNCONTROLLABLE CIRCUMSTANCES

SECTION 9.1 Uncontrollable Circumstances - General

(a) "Uncontrollable Circumstances" means any event or condition, whether affecting (i) the operation or maintenance of the Facility, (ii) the Authority, or (iii) the Company that has, or may reasonably be expected to have, a material adverse effect on any of the

provisions of the Project Documents or on the Facility or the Facility Site or the operation, ownership or possession of either or both of them, if such event or condition is beyond the control, and not the result of willful or negligent action or a lack of reasonable diligence, of the party (the "Non-Performing Party") relying thereon as justification for not performing any obligation or not complying with any condition required of such party hereunder, or for delaying such performance or compliance. Without limitation, the following events may, if they meet the requirements of the preceding sentence, constitute Uncontrollable Circumstances:

(1) an act of God (except for weather conditions normal for the geographic area), landslide, lightning, earthquake, flood, fire, or similar casualty, an act of a public enemy, war, blockade, insurrection, riot, general arrest, or restraint of government or people, civil disturbance or any similar occurrence;

(2) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Non-Performing Party and the Non-Performing Party does not control, or is not controlled by or under common control with, the administrative agency or governmental officer or body, provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of such Non-Performing Party;

(3) the adoption, promulgation, issuance, material modification or change in interpretation, after the date of this Agreement, of any federal, state or local law, regulation, rule, requirement, or ordinance of any federal, state or local body or entity (including the City); a law, regulation, rule, requirement or ordinance is deemed to be duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, when it is in provisional, interim or final form and effective or to become effective without any further action by any federal, state or local governmental body, administrative agency or governmental official having jurisdiction;

(4) the failure of any appropriate federal, state or local agencies or public or private utilities having operational jurisdiction in the area or location of any part of the Facility or the Waste Water Plant, or both, to provide and maintain electricity and water service, or reasonable means of access to or egress from the Waste Water Plant or the Facility, or both, or a reasonably direct public way for motor vehicles transporting Sludge from the Waste Water Plant to the Facility;

(5) if the Company is the Non-Performing Party, an Event of Default by the Authority under this Agreement or the City under the Sludge Disposal Agreement or a breach by the City or the Authority of the Facility Site Lease having the effect of impairing the Company's ability to perform its obligations under this Agreement or of increasing the cost to the Company of such performance; and

(6) a strike, lockout, or similar industrial or labor action.

(b) Upon the occurrence of an Uncontrollable Circumstance the Company must transport Biosolids delivered to it hereunder to a Disposal Facility as provided in Section 3.2(b); provided, however, that in such case the Company shall bear sole responsibility for obtaining any modifications to the SSU Permits or any other governmental approvals required such that the actions of the Company under this Section 9.1(b) do not result in a violation of such SSU Permits.

(c) Each Party shall be excused for its failure to perform in accordance with this Agreement any obligation that cannot be performed due to an Uncontrollable Circumstance; provided, however, that in no event shall Uncontrollable Circumstances relieve (i) either Party's obligation to make a payment when due hereunder, or (ii) the Company's obligation to timely transport Digested Biosolids from BRWWTP, and accept and process all Specification Biosolids, and remove all Class A Biosolids tendered for delivery in accordance with this Agreement.

(d) A Party claiming the benefit of this Article 9 shall give prompt written notice to the other Party and shall use reasonable efforts to promptly overcome the Uncontrollable Circumstance and resume full and timely performance hereunder.

(e) If the delivered Digested and or Unstabilized Biosolids fail to meet the definition of Specification Biosolids for any other reason, they will be handled in compliance with Applicable Law, after consultation with the Authority and the additional costs added to the Service Fee as an Uncontrollable Circumstance Cost.

ARTICLE 10 DEFAULT AND TERMINATION

SECTION 10.1 Remedies for Default

(a) If either Party breaches one or more of its material obligations under this Agreement, the right of the other Party to recover damages or to be reimbursed ordinarily constitutes an adequate remedy. Therefore, neither Party may terminate this Agreement unless an Event of Default on the part of any of the other Party has occurred and is continuing.

(b) The Parties agree that the specific provisions for liquidated damages set forth in this Agreement are intended to measure as accurately as possible the direct damages of the Party entitled to such damages and where liquidated damages are provided they shall be the exclusive monetary remedy to the party claiming the remedy. Except as specifically set forth as a component of liquidated damages described in this Agreement, no Party may recover lost profits, lost revenues, indirect, consequential or punitive damages as a result of an Event of Default or a violation of this Agreement by the other Party.

SECTION 10.2 Events of Default by the Company

Each of the following constitutes an Event of Default on the part of the Company:

(a) The Company fails to pay any amount it is required to pay under this Agreement within thirty (30) days after receipt by the Company of written demand from the

Authority accompanied by written notice stating that unless the delinquent amount is paid within thirty (30) days the failure will constitute an Event of Default;

(b) The Company persistently or repeatedly fails or refuses to substantially fulfill any of its material obligations under this Agreement. No failure or refusal on the part of the Company described in this clause (b) shall constitute an Event of Default unless and until:

(i) the Authority has given written notice to the Company stating that in its opinion a particular default or defaults (described in reasonable detail in such notice) exist that, unless corrected, constitute a material breach of this Agreement on the part of the Company; and

(ii) the Company has neither corrected such default nor initiated reasonable steps to correct it within a reasonable period of time (which must in any event be not less than five days from the date of the notice given pursuant to clause (i) of this Section 10.2(b)); provided, however, that if the Company has commenced to take reasonable steps to correct such default within such reasonable period of time, the default shall not constitute an Event of Default for as long as the Company is continuing to take reasonable steps to correct it.

(c) The occurrence of a decision or action by any governmental, local or other competent authority, agency or institution which adversely affects the Facility or the performance by the Company of its obligations under this Agreement if such decision or action is due in whole or in part to the activities of the Company or the complaints of third parties relating to the activities of the Company. No decision or action described in this clause (c) shall constitute an Event of Default unless and until:

(i) the Authority has given written notice to the Company stating that in its opinion a particular default or defaults (described in reasonable detail in such notice) exist that, unless corrected, constitute a material breach of this Agreement on the part of the Company; and

(ii) the Company has neither corrected such default nor initiated reasonable steps to correct it within a reasonable period of time (which must in any event be not less than five days from the date of the notice given pursuant to clause (i) of this Section 10.2(c)); provided, however, that if the Company has commenced to take reasonable steps to correct such default within such reasonable period of time, the default shall not constitute an Event of Default for as long as the Company is continuing to take reasonable steps to correct it.

(d) If, by order of a court of competent jurisdiction, a receiver or liquidator or custodian or trustee of the Company or of a major part of either of their property is appointed and is not discharged within sixty (60) days, or if, by decree of such a court, the Company is adjudicated insolvent, or a major part of either of their property is sequestered, and such decree has continued undischarged and unstayed for sixty (60) days after the entry of such decree, or if a petition to reorganize the Company pursuant to the Federal Bankruptcy Code or any other similar statute applicable to the Company, as now or hereinafter in effect, is filed against the Company and is not dismissed within sixty (60) days after such filing;

(e) If the Company is adjudicated bankrupt or files a petition in voluntary bankruptcy under any provision of any bankruptcy law or consents to the filing of any bankruptcy

or reorganization petition against the Company under any such law, or (without limitation of the generality of the foregoing) files a petition to reorganize the Company pursuant to the Federal Bankruptcy Code or any other similar statute applicable to the Company, as now or hereafter in effect; or

(f) If the Company makes an assignment for the benefit of creditors, or admits in writing an inability to pay debts generally as they become due, or consents to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of the Company or of a major part of the Company's property.

SECTION 10.3 Events of Default by the Authority

Each of the following constitutes an Event of Default on the part of the Authority:

(a) The Authority fails to pay any amount it is required to pay under this Agreement within thirty (30) days after receipt by the Authority of written demand from the Company accompanied by written notice stating that unless the delinquent amount is paid within thirty (30) days the failure will constitute an Event of Default;

(b) The persistent or repeated failure or refusal by the Authority substantially to fulfill any of its material obligations under this Agreement. No failure or refusal on the part of the Authority described in this clause (b) constitutes an Event of Default unless and until:

(i) the Company has given prior written notice to Authority stating that in its opinion a particular default or defaults (described in reasonable detail in such notice) exists and unless corrected, constitute a material breach of this Agreement on the part of the Authority; and

(ii) the Authority has neither corrected such default nor initiated steps to correct it within a reasonable period of time (which in any event must be not less than five (5) days from the date of the notice given pursuant to clause (i) of this Section 10.3(b), provided that if the Authority has commenced to take reasonable steps to correct such default within such reasonable period of time, the default shall not constitute an Event of Default for as long as the Authority is continuing to take reasonable steps to correct it.

SECTION 10.4 Termination on Default

(a) Either Party may terminate this Agreement while an Event of Default of the other Party exists. The right of termination for an Event of Default may be exercised only by a Notice of Termination (the "Notice of Termination") given to the Party in default. The proper exercise of the right of termination is in addition to and not in substitution for, such other remedies, whether damages or otherwise, of the Party exercising the right of termination.

(b) Neither Party's right to termination for default may be exercised while dispute resolution proceedings under this Agreement or pursuant to judicial action, are pending or underway regarding the reasons for, or validity of, the exercise of a Party's right to terminate for default.

SECTION 10.5 Termination for Convenience

The Authority may terminate this Agreement for its convenience if at any time the Authority determines that such termination is in the best interest of the Authority. If this Agreement is terminated for convenience pursuant to this Section 10.5, the Authority will pay to the Company an amount equal to the Company's additional Actual Costs incurred by the Company as a direct result of such termination, excluding any anticipatory profits not earned, up to the date of termination. Any such amount shall be reduced to reflect any revenues received or costs avoided by the Company as a result of such termination. "Actual Costs" shall mean those costs for which the Company has delivered to the Authority the following items: a certificate signed by an authorized officer of the Company, setting forth the amount of such cost and the reason why such cost is properly chargeable to the Authority, and stating that such cost is an arm's length and competitive amount owed as a result of such termination in order to reflect actual costs incurred thereby and not lost or unearned profits by either party thereunder. For purposes of clarification, any termination of this Agreement by the Authority pursuant to any other provision of this Agreement, which permits termination, shall in no event constitute a termination pursuant to this Section 10.5.

SECTION 10.6 Survival of Certain Rights and Obligations

No termination of this Agreement shall limit or otherwise affect (i) the rights and obligations of either Party that have accrued before the date of such termination, or (ii) any provision of this Agreement that by its terms survives termination. If necessary to give force and effect to obligations survive termination of this Agreement, applicable other provisions hereof survive termination of this Agreement solely for such purpose.

ARTICLE 11 AUTHORITY AND COMPANY REPRESENTATIVES

The initial Authority Representative shall be its Executive Director. The Initial City Representative shall be its Chief of the Wastewater Division. The initial Company Representative shall be [NAME and TITLE]. The Authority may change the Authority Representative and the Company may change the Company Representative upon five (5) Business Days' written notice to the other Party of the name, address and contact information of the replacement. The approvals, requests and notices by a Party to the other Party hereunder may be made by or given to the Authority Representative, the City Representative or Company Representative, as listed in Section 15.2, as the case may be.

ARTICLE 12 INSURANCE

SECTION 12.1 Types of Insurance for the Company

The Company shall obtain and maintain, or cause to be obtained and maintained, the Required Insurance in the forms approved by the Authority and otherwise in accordance with Schedule 7. Any increases in the deductible limits from those provided for in Schedule 7 with

respect to Required Insurance or the cost thereof, shall not increase the liability of, or the amount of any payment required to be made by, the Authority under this Agreement.

SECTION 12.2 Delivery of Policies; Certain Required Provisions

(a) The Company must deliver to the Authority copies of all certificates for Required Insurance and any policy amendments and policy renewals and, upon the reasonable request of the Authority, any additional information relating to Required Insurance. Each policy must name the Authority and the City as additional insureds and require the insurer to provide the Authority sixty (60) day's prior written notice of termination or cancellation except 10 days' notice for non-payment of premium.

(b) The Company must use only responsible insurance companies of recognized standing which are authorized to do business in Maryland as providers of all Required Insurance. The Company must carry all Required Insurance with insurance companies rated at least "A-" or its equivalent by Best's Key Rating or another national rating organization or other comparable insurance companies acceptable to the Authority. The Company may affect Required Insurance by endorsement of blanket insurance policies.

(c) The Company must not take out separate insurance concurrent in form or contributing in the event of loss with Required Insurance if the existence of such insurance reduces amounts payable under Required Insurance. The Company must immediately notify the Authority whenever it applies for any separate insurance and must promptly deliver the policy or policies evidencing the separate insurance to the Authority.

(d) The Company must submit to the appropriate insurer timely notices and claims of all losses insured under any Required Insurance policy, pursue such claims diligently and comply with all terms and conditions of Required Insurance policies. The Company must promptly give the Authority copies of all notices and claims of loss and any documentation or correspondence related to such losses. The Company must make all policies for Required Insurance, policy amendments and other related insurance documents available for inspection and photocopying by the Authority on reasonable notice.

**ARTICLE 13
INDEMNIFICATION**

SECTION 13.1 Indemnification by the Company

The Company shall indemnify and hold harmless the Authority, the City, and their respective agents, officers, and employees, from and against all liability, suits, judgments, costs, and expenses, including attorney's fees, arising from the activities by the Company or by any of its agents, contractors, employees, licensees or invitees under this Agreement to the extent such liability, suits, judgments, costs and expenses, including attorney's fees, are caused by the Company or by any of its agents, contractors, employees, licensees or invitees, any breach or default by the Company in performing its obligations under the provisions of this Agreement or Applicable Law; any act or omission of the Company or any of its agents, contractors, employees, licensees, or invitees, whether or not wrongful; and any injury to or death of any person or damage to any property occurring on or about the Authority's or the City's, property arising from any act or omission of the Company or any of its agents, contractors, employees, licensees or invitees. In

the event that any such liability, suits, judgments, costs or expenses is or are caused concurrently or jointly by the Parties, each Party shall be liable under this Section 13.1 in proportion to its relative degree of fault.

SECTION 13.2 Indemnification by the Authority

The Authority shall be responsible for its own activities relating to the performance of its obligations under the Agreement; for the acts and omissions of its agents, contractors, employees and licensees or invitees; and for the maintenance and safety of its own property; and shall investigate and defend all claims and suits arising out of those matters, including all costs and fees, and shall pay all judgments entered as a result of a finding of liability against it arising from them. In the event that liability, suits, and/or judgments arise from concurrent or joint conduct of the Parties, each Party shall be liable in proportion to its relative degree of fault as agreed upon by the Parties or as determined by special verdict at trial.

**ARTICLE 14
PERFORMANCE BOND**

SECTION 14.1 Performance Bond

A performance bond is required for the Term of the Agreement and any extension periods. Accordingly, on or before the Effective Date, and if applicable, the first day of the First Extension Period and the first day of the Second Extension Period, the Company shall deliver to the Authority a Performance Bond substantially in the form of Schedule 5, executed by itself as principal and a surety rated by Bests Key Rating as A- or better. The Performance Bond shall name the Authority and the City as beneficiaries. The Performance Bond shall be released upon termination of this Agreement so long as the Company is not in default hereunder and the Performance Bond is not being drawn upon by the Authority and/or the City. In lieu of a single performance bond covering the Term of the Agreement, the Authority may, at its sole discretion, accept an annual bond that is renewed or replaced prior to the end of the expiration of any applicable performance bond term.

SECTION 14.2 Term; Amount

(a) The Company shall provide a Performance Bond during the Term of the Agreement, including any applicable extension periods. The principal amount of such bond shall be \$5,000,000. If the Company satisfies its obligations under this Section 14.2(a) by providing annual renewable Performance Bonds, each such Performance Bond shall be in the principal amount of \$5,000,000 .

(b) In the event that the Company fails for any reason to maintain the Performance Bond in full force and effect during the Term, then in addition to any other available remedies hereunder, on or before the first day of the calendar month next succeeding the calendar month in which such failure occurs, the Company shall pay to the Authority an amount equal to \$1,000,000 (the "Performance Bond Damages").

**ARTICLE 15
MISCELLANEOUS**

SECTION 15.1 Assignment

Neither Party may assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, except that the Authority may assign this Agreement to the City without the prior written consent of the Company and the Company may assign this Agreement to an affiliate without the prior written consent of the Authority.

SECTION 15.2 Notices

All notices, designations, consents, approvals, and other communications required, permitted or otherwise delivered under this Agreement must be in writing and may be telexed, cabled or delivered by hand, mailed by first class registered or certified mail, return receipt requested, postage prepaid, or dispatched by next day delivery service and, in any case, must be addressed as follows:

If to the Authority Representative:

Executive Director
Northeast Maryland Waste Disposal Authority
Tower II, Suite 402
100 South Charles Street
Baltimore, Maryland 21201-3330
Telephone: (410) 333-2730
Facsimile: (410) 333-2721

with a copy to the City:

Division Chief
Department of Public Works, Bureau of Water and Wastewater, Wastewater
Facilities Division
8201 Eastern Boulevard
Baltimore, MD 21224
Telephone: (410) 396-9806
Facsimile: (410) 396-5210

If to the Company Representative:

Company Counsel (or designee)
Contact Information

Any Party may change the address to which its communications are delivered by notice to the other Party. Any communications given by mail in accordance with this Section 15.2 are deemed to have been given five (5) Business Days after the date of mailing; communications given by any other means (including, without limitation, next day delivery service) are deemed to have been given when delivered.

SECTION 15.3 Entire and Complete Agreement

This Agreement (including all Schedules to this Agreement) constitutes the entire and complete agreement of the Parties with respect to the subject matter it contains, and supersedes all prior or contemporaneous understandings, arrangements, commitments and representations, all of which, whether oral or written, are merged into this Agreement.

SECTION 15.4 Binding Effect

This Agreement shall bind and benefit the Parties to this Agreement and any successor or permitted assignee. In addition, by execution of this Agreement, [COMPANY] is binding itself and its successors and assigns to be joint and several liability to the Authority for the performance by the Company of its obligations under this Agreement.

SECTION 15.5 Other Documents

Each Party shall execute and deliver any instruments and perform any acts that may be necessary or reasonably requested by any other Party in order to give full effect to this Agreement.

SECTION 15.6 Applicable Law

The laws of Maryland shall govern the validity, interpretation, construction and performance of this Agreement, without regard to conflict of law principles.

SECTION 15.7 Headings

Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

SECTION 15.8 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when executed and delivered shall together constitute one and the same instrument.

SECTION 15.9 Amendment or Waiver

Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except by a written instrument signed by the Party against whom enforcement of such change, modification, amendment or waiver is sought.

SECTION 15.10 Confidential Information

The rights and obligations of the Parties set forth herein with respect to Confidential Information are subject to Applicable Law, including Title 10, Subtitle 6 of the State Government Article of the Annotated Code of Maryland, as amended, and the Northeast Maryland Waste Disposal Authority Act, codified as Subtitle 9 of Title 3 of the Natural Resources Article of the Annotated Code of Maryland, and all regulations promulgated thereunder.

SECTION 15.11 Severability

In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith and agree as to such amendments, modifications or supplements of or to this Agreement, that to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect.

SECTION 15.12 Relationship of the Parties

Neither Party has any responsibility whatsoever with respect to services provided or contractual obligations assumed by any other Party and nothing in this Agreement is deemed to constitute one Party a partner, agent or legal representative of the other Party or to create any fiduciary relationship between the Parties.

SECTION 15.13 Effect of Authority Approvals

(a) No review, comment or approval by the Authority under this Agreement affects the rights, remedies, powers or privileges of the Authority in connection with (i) licenses, permits, reviews or approvals pursuant to Applicable Law, (ii) enactment, interpretation or enforcement of any Applicable Law, (iii) any of its other governmental functions, or (iv) matters not related to this Agreement.

(b) No review, comment or approval, nor any failure to review, comment or give approval, by the Authority under this Agreement, relieves the Company of any of its obligations under this Agreement, or imposes any liability upon the Authority; provided that for purposes of this Section 15.13, the Authority will be deemed not to have objected to materials, information or proposals presented by the Company in the form and with all supporting documents required by this Agreement and concerning which the Authority has not responded within the time period prescribed by this Agreement for comment, approval or similar action by the Authority.

SECTION 15.14 Dispute Resolution

(a) Subject to Applicable Law, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, which the Parties are unable to resolve themselves shall be finally settled by Arbitration in accordance with this Section 15.14 and (except to the extent inconsistent with the express provisions of this Section) the Arbitration Rules of the American Arbitration Association, by a single arbitrator chosen in accordance with such Rules. The agreement to arbitrate disputes as provided in this Agreement shall be specifically enforceable in any court having jurisdiction.

(b) No individual who is, or has at any time been, an officer, employee or consultant of either Party shall be an arbitrator without the express written consent of both Parties.

(c) Either Party may initiate Arbitration by giving notice to the other Party and to the Washington, D.C. Regional Director of the American Arbitration Association, requesting

Arbitration of any controversy or claim arbitrable hereunder. The award of the arbitrator shall be in writing and shall include written findings of fact.

(d) All Arbitration proceedings shall be held in Baltimore, Maryland or such other place reasonably convenient to the Parties, as the arbitrator shall determine. Each of the Parties shall produce such records as the arbitrator may request.

(e) The arbitrator shall determine a fair and equitable allocation of the reasonable fees and expenses of each party incurred in connection with any Arbitration hereunder, and such allocation shall be binding upon the Parties.

(f) Each Party submits to the jurisdiction of the arbitrator appointed in accordance herewith. The determination of the arbitrator shall be final and binding upon the Parties and may be entered in any court having jurisdiction.

SECTION 15.15 Nondiscrimination

(a) The Company must not discriminate or permit discrimination against any person because of race, color, religion, national origin or sex. This provision prohibiting discrimination is a material term of this Agreement.

(b) The Company agrees to comply with the nondiscrimination in employment policies in Authority contracts as required by Applicable Law, as well as all other applicable state and federal laws and regulations regarding employment discrimination. The Company assures the Authority that, in accordance with Applicable Law, it does not, and agrees that it will not discriminate in any manner on the basis of age, color, creed, national origin, race, religious belief, sexual preference or handicap.

(c) The Company must include the provisions of this Section in all subcontracts.

SECTION 15.16 Minority Consideration

The Company shall make best efforts to use minority business enterprises, as defined in, the Baltimore City, Maryland Minority Business Program, as set forth in Schedule 9, in the performance of its obligations under this Agreement.

SECTION 15.17 Estoppel Certificates

Each Party, upon the reasonable request of the other Party, shall execute, acknowledge and deliver a statement in writing (i) certifying that this Agreement is unmodified and is in full force and effect (or if there have been modifications, that the Agreement is in full force and effect as modified and stating the modifications); and (ii) stating whether or not to the best knowledge of the signer of such certificate the signing Party is in default in performance of any covenant, agreement or condition contained in this Agreement and, if so, specifying each such default of which the signer may have knowledge. Each Party acknowledges and agrees that any such statement delivered under this Agreement may be relied upon by third parties not a Party to this Agreement.

SECTION 15.18 Limitation of Liability of Authority

(a) The obligations of the Authority hereunder shall not be payable from the general funds of the Authority and the incurrence or non-performance of such obligations shall not constitute or create a legal or equitable pledge of, or lien or encumbrance upon, or claim against, any of the assets or property of the Authority or upon any of its income, receipts or revenues, except such revenues received from the City.

(b) The execution and delivery of this Agreement by the Authority shall not impose any personal liability on the members, officers, employees or agents of the Authority. No recourse shall be had by the Company for any claims based on this Agreement against any member, officer, employee or other agent of the Authority in his individual capacity, all such liability, if any, being expressly waived by the Company by the execution of this Agreement.

SECTION 15.19 Authority Changes

(a) Upon written request by the Authority, the Company shall make any alteration, addition or modification to the operating procedures or responsibilities of the Company (“Authority Change”) unless such Authority Change will or is reasonably likely to result in a violation of any Applicable Law.

(b) The Authority shall provide the Company with a written description of any proposed Authority Change. Within thirty (30) days of the Company’s receipt of such written description the Company shall provide notice to the Authority of (i) any associated cost adjustment (as described in Section 15.19(c) below) or modification to this Agreement which the Company anticipates will be necessary as a result of the proposed Authority Change and (ii) any objections of the Company to the proposed Authority Change. The Parties shall negotiate in good faith to reach an agreement on the proposed Authority Change. In the event the Authority elects to proceed, the Authority Change shall be implemented upon the issuance by the Authority of a written authorization to proceed (“Change Order”). In the event that the Parties disagree on all or any part of the scope or price adjustment related to the proposed Authority Change, then the Company shall immediately implement any non-disputed component of the Change Order and the dispute shall be resolved in accordance with Section 15.14 and such resolution shall be reflected in an amended Change Order.

(c) In connection with any Change Order in accordance with Section 15.19(b), the Service Fee shall be adjusted to reflect the reasonably anticipated cost increase or reasonably anticipated cost savings reasonably expected to be incurred or realized by the Company as a result of such Authority Change. Any such adjustment of the Service Fee shall be included in the Change Order.

IN WITNESS WHEREOF, each of the Parties has duly executed this Agreement, or has caused this Agreement to be duly executed on its behalf, as of the date first written above.

**NORTHEAST MARYLAND WASTE
DISPOSAL AUTHORITY**

By: _____
Name: Andrew Kays
Title: Executive Director

[COMPANY]

By: _____
Name:
Title:

SCHEDULE 1

DEFINITIONS

“Accepted Biosolids” means Specification Biosolids which have been collected by the Company from the BRWWTP and subsequently processed in the Acceptance Facility.

“Actual Costs” has the meaning specified in Section 10.5.

“Agreement” means this Service Agreement including all Schedules hereto.

“Applicable Law” means any law, regulation, permit, approval requirement or order of any federal, state or local agency, court or other body applicable from time to time to the acceptance, transportation, processing and marketing of Biosolids under this Agreement, the ownership, construction, operation and maintenance of the Facility, or the performance of any obligations under this Agreement or any other agreement entered into in connection herewith.

“Authority” has the meaning specified in the introduction to this Agreement and includes its successors and permitted assigns hereunder.

“Authority Change” has the meaning specified in Section 15.19.

“Authority Fee” means the scheduled fee that the Company will include in the invoice to the City and remit to the Authority on a monthly basis. A schedule of the Authority Fee is included in Schedule 3.

“Authority Representative” means the Person so designated as provided in Article 11.

“Beneficial Use” and **“Beneficially Used”** means Biosolids that are either: (i) packaged (bag, box or other container) in individual packages and sold as a final product; (ii) sold in bulk load to persons who (A) use the material in the course of doing business or (B) further process the material for sale, or (iii) utilized as fertilizer, soil amendment, or soil substitute in agricultural, reclamation, landscaping or horticulture application.

“Biosolids” means digested biosolids originating at the BRWWTP.

“Business Day” means a calendar day excluding Saturdays, Sundays and any Holiday. In the event that an obligation to be performed under this Agreement falls due on a Saturday, Sunday or a Holiday, the obligation shall be deemed due on the next Business Day thereafter.

“BRWWTP” has the meaning specified in the Recitals hereto.

“Change Order” has the meaning specified in Section 15.19.

“Class A Biosolids” means sewage sludge processed by the Company at the Facility and which meets 40 C.F.R. Parts 503.32 and 503.33 criteria for Class A pathogen reduction and vector attraction reduction and applicable requirements of the State of Maryland.

“Class B Biosolids” means sewage sludge processed by the Company at the Facility and which meets 40 C.F.R. Parts 503.32 and 503.33 criteria for Class B pathogen reduction and vector attraction reduction and applicable requirements of the State of Maryland.

“Company” has the meaning specified in the introduction to this Agreement and includes its successors and permitted assigns hereunder.

“Company Representative” means the Person so designated as provided in Article 11.

“Confidential Information” means information delivered to a Party (the “Receiving Party”) by the other Party (the “Delivering Party”) or on the Delivering Party’s behalf in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by the Receiving Party as being confidential information of the Delivering Party, provided that such term does not include information that (a) was publicly known or otherwise known to the Receiving Party prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by the Receiving Party or any person acting on the Receiving Party’s behalf or (c) otherwise becomes known to the Receiving Party other than through disclosure by the Delivering Party.

“City” has the meaning specified in the Recitals hereto, and includes its successors and assigns.

“CPI” has the meaning specified in Schedule 6.

“Delivery Hours” has the meaning specified in Section 3.2

“Disposal Facility” means a landfill or other acceptance facility, which does not meet the definition of Beneficial Use herein. The Disposal Facility may not be the City’s Quarantine Road Landfill unless disposal is approved first, in writing, by the City.

“Effective Date” means the date on which all of the following conditions are met: the Authority and the Company have signed the Agreement; the Baltimore City Council has approved the Waste Disposal Agreement; and the Authority and the City have signed the Waste Disposal Agreement.

“Event of Default” has the meaning specified Article 10.

“Facility” means the Company’s Facility or the City’s Facility, as the case may be, which is used to accept and process biosolids and produce and market Class A Biosolids under this Agreement.

“Federal Bankruptcy Code” means the Federal Bankruptcy Code as in effect from time to time.

“First Extension Period” has the meaning specified in Section 2.2.

“Governmental Authority” means the United States of America, or any state or other political subdivision thereof, including, without limitation, any municipality, township or county, and any domestic entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including, without limitation, any corporation or other entity owned or controlled by any of the foregoing.

“Guaranteed Tonnage” means a minimum of 30,600 wet tons to a maximum of 55,500 wet tons; based on a % solids scale of 18% to >24% on an annual basis.

“Holiday” means any weekday that national banks located in Maryland are not open for business.

“Incremental Tonnage” means City biosolids, accepted at the Facility, above the Guaranteed Tonnage amount calculated on a monthly basis.

“Initial Service Date” has the meaning specified in Section 2.3.

“Initial Term” has the meaning specified in Section 2.1.

“Late Payment Rate” means an amount equal to Bank of America N.A. prime rate of interest, as adjusted from time to time, plus two percent.

“Loading Area” shall mean the premises identified on Schedule 8.

“Marketing Plan” means the plan described in Schedule 3.

“Notice of Non-Extension” has the meaning specified in Section 2.2.

“Nuisance Condition” means a condition determined to be a nuisance by a competent regulatory authority under local, state, or other Applicable Law.

“Notice of Termination” has the meaning specified in Section 10.4.

“Parties” has the meaning set forth in the Introduction to this Agreement.

“Party” has the meaning set forth in the Introduction to this Agreement.

“Performance Bond” means the bond to be provided to the Authority and the City on behalf of the Company as provided in Article 14.

“Performance Bond Damages” has the meaning specified in Section 14.2(b).

“Performance Damages” has the meanings specified in Article 7.

“Permits” has the meaning specified in Section 6.2.

“Person” shall mean an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, or a Governmental Authority or agency or political subdivision thereof.

“Processing Fee” has the meaning specified in Section 8.1.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

“Required Insurance” has the meaning specified in Schedule 7.

“Service Fee” has the meaning specified in Section 8.1.

“Specification Biosolids” has the meaning specified in Section 6.1(a) and 6.1(b)

“Uncontrollable Circumstance” has the meaning specified in Section 9.1.

“Term” means the period of the Initial Term and all extensions under Section 2.2.

SCHEDULE 2A
[FACILITY DESCRIPTION BY COMPANY]

SCHEDULE 2B

CLASS B BIOSOLIDS DISTRIBUTION PROTOCOL

Class B Biosolids Distribution Protocol

Whenever it is determined that biosolids processing achieves Class B standards as defined by 40 CFR section 503 rather than Class A, said biosolids shall be delivered to permitted agricultural sites and land applied or disposed in accordance with all applicable regulations and permit conditions. Contractor will maintain adequate permitted land base or contracts to support all guaranteed production and shall maintain disposal options at a landfill for periods not suited to land application. Any load of biosolids produced which includes any quantity of non-Class A material will be treated as Class B providing that those biosolids do meet all standards for Class B designation.

SCHEDULE 3

The monthly fee remitted to the Authority shall be \$7,000, payable by the 15th day of each month or via an annual lump sum no later than August 1 of the effect Fiscal Year.

SCHEDULE 4
CONTRACT AFFIDAVIT

Contract Affidavit

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title)_____ and the duly authorized representative of (business)_____ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

The business named above is a (domestic____) (foreign____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: _____

Address: _____

SCHEDULE 5
FORM OF PERFORMANCE BOND
PERFORMANCE BOND

Principal

Business Address of Principal

Surety

a corporation of the State of and authorized to do business in the State of Maryland.

Obligee
Northeast Maryland Waste Disposal Authority, Maryland

Penal Sum of Bond
(express in words and figures)

Date of Contract: _____, 2025

Date Bond Executed: _____, 2025

[TITLE].

Contract Number:

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal named above and Surety named above, are held and firmly bound unto the Obligee named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we, the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such ability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the Northeast Maryland Waste Disposal Authority (the “Authority”), which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as “the Agreement.”

NOW, THEREFORE, during the term of said Agreement, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the contract; and
2. Principal and Surety shall comply with the terms and conditions in this Performance Bond.

This Performance Bond is for the term beginning the ___ day of _____, and ending the ___ day of _____. In the event that Surety issues an annual performance bond and determines not to issue a continuation certificate or elects not to renew such annual bond, Surety will provide notice of such determination to the Oblige, in writing and at least forty-five (45) days prior to the date of expiration of the bond. The failure or inability of the Principal to file a replacement bond or other security (prior to the expiration of the current bond) in the event the Surety determines not to renew an annual bond shall constitute a loss to the Oblige recoverable under the current bond or any extension thereof.

Whenever Principal shall be declared by the Authority to be in default under the Agreement, the Surety may within fifteen (15) days after notice of default from the Authority notify the Authority of its election to either promptly proceed to remedy the default or promptly proceed to complete the contract in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the Authority thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed there under or the Specifications accompanying the same shall in any way affect its obligations on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a

sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution or power of attorney authorizing such action, and each such duly authorized representative to sign below and to set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

In Presence of: Individual Principal

as to (SEAL) Witness

.....
In Presence of: Partnership Principal
Witness

(SEAL)
Name of Partnership

(SEAL)

(SEAL)

(SEAL)

.....
Corporate Principal

Attest:

(Name of Corporation)

Corporate Secretary

President

AFFIX CORPORATE SEAL

.....
Attest:

By:

Title
Signature

AFFIX CORPORATE SEAL

Business Address of Surety:

Bonding Agent's name:

Agent's Address:

SCHEDULE 6
INFLATION ADJUSTMENT

I. Service Fee

Formula:

Beginning on July 1, 2026 for fiscal year 2026 and on July 1 of each succeeding fiscal year for such succeeding year, the Service Fee shall be adjusted according to the following formula:

Inflation Adjusted Service Fee for Year X = Service Fee x [1 + Y]

where:

Y = the percentage increase in the CPI for the calendar year immediately prior to Year X.

“CPI” means the United States Consumer Price Index, Baltimore-Columbia-Towson, All Urban Consumers, Washington-Baltimore average, all items utilizing the value of such index released as of January 2025 as its base.

SCHEDULE 7**REQUIRED INSURANCE****Section 1. Types of Insurance**

On and after the Effective Date, the Company shall obtain and keep in force the following insurance with insurance companies licensed and qualified to do business in the State of Maryland rated at least "A-" or its equivalent by Best's Key Rating Guide, evidenced by a certificate of insurance and certified copies of all insurance policies.

(a) Workers' Compensation

The Company shall maintain such insurance as required by Maryland Law covering all of its employees as will protect them and save the Authority and the City harmless from claims.

(b) Commercial General Liability Insurance

The Company shall arrange and pay for a general liability policy which will protect the Company, the Authority and the City from liability for any personal injury, including death or property damage which may arise from its operations or the operations of its Company and subcontractors or by anyone directly or indirectly employed in the work by either of them under this Agreement, as follows:

- (1) Bodily injury and property damage
- (2) Aggregate for products and completed operations
- (3) General aggregate (on a per project basis)
- (4) Per occurrence for personal & advertising injury liability

There shall be no exclusions for explosion, collapse or underground exposures; the Company shall obtain contractual liability coverage, independent contractors coverage, broad form property damage coverage, and shall name the Authority and the City as an additional insured.

(c) Business Vehicle Liability Coverage

The Company shall maintain coverage, which extends to all owned, leased, rented or borrowed vehicles for each accident involving bodily injury and or property damage. Coverage must extend to include all monetary state and federal regulations as well as respects uninsured/underinsured motorists coverage, ICC, PUC filings and financial responsibility requirements.

- (d) Umbrella/Excess Liability per occurrence and in the aggregate. Coverage must at a minimum follow form with applicable underlying insurance.**

- (e) Professional Liability/Errors & Omissions insurance is required for all professional services performed under the contract in amounts customary for the profession.
- (f) Environmental Impairment Liability covering the Facilities.
- (g) The Company and its subcontractors must submit evidence of required insurance prior to performance.
- (h) The Company must carry property damage insurance for all property owned, leased or loaned by the Company whether to be used in this project or not. Limits should equal the actual cash value of such equipment and coverage must be on an “all risk” basis, subject to a \$100,000 deductible.

Section 2. General

- (a) The Authority and the City shall be named as an additional insured on the above Commercial General Liability and Environmental Impairment policies.
- (b) All losses under the required insurance as to the insurable interests of the Authority and the City shall be adjusted to the satisfaction of the insureds, the loss payee and the insurance company.
- (c) The Company shall purchase commercial insurance for the above coverages.
- (d) All claims made policies shall provide a minimum of 365 days discovery period.
- (e) The Company shall assure that all subcontractors performing services for the Company under this Agreement carry Workers’ Compensation insurance and other coverages appropriate to the responsibilities of the subcontractor, either individually or as an additional insured on the policies of the Company.

SCHEDULE 8
LOADING AREA at BRWWTP

[INSERT BRWWTP DIAGRAM]

SCHEDULE 9

BALTIMORE CITY MINORITY BUSINESS ENTERPRISE PROGRAM

[Insert City requirements]

SCHEDULE 10

RESERVED

SCHEDULE 11
CAPITAL IMPROVEMENTS SCHEDULE

SCHEDULE 12
TERMS AND CONDITIONS FOR USE OF CITY SITE