

Contract # 00847

MASTER SERVICE AGREEMENT

BETWEEN

NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY

AND

[Organics bin Contractor]

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MASTER SERVICE AGREEMENT

This Master Service Agreement (“Agreement”) dated _____ (“Effective Date”), by and between the Northeast Maryland Waste Disposal Authority (the “Authority”), a body politic and corporate and a public instrumentality of the State of Maryland, with offices at 100 South Charles Street, Tower II, Suite 402, Baltimore, Maryland 21201, and [Organics bin Contractor], an entity in good standing under the laws of the [State/Commonwealth], with offices at [address]. The Authority and the Contractor are individually referred to as a “Party” and collectively referred to as the “Parties.”

RECITALS

1. The Authority, on behalf of and for the benefit of Baltimore City, Maryland, requires the services of a contractor to provide for the collection and removal of organic waste from multiple locations with Baltimore City, Maryland (the “City”) for the purpose of composting.

2. Pursuant to this Agreement, the Contractor will enter into a transaction with the City to issue an agreement pursuant to which the Contractor shall provide Collection and Composting Services (a “Transaction”).

3. The Authority and the Contractor desire to enter into this Agreement in order to provide the general terms and conditions of each and all Transaction(s) which will govern the Services of the Contractor to be provided to the City.

4. Each Transaction will be evidenced by a written confirmation, purchase order or ancillary contract establishing the specific terms for the Services to be provided to the City (a “Confirmation”).

5. The Authority may assist the City and/or the Contractor in entering into a Transaction but shall have no obligations under this Agreement or any Confirmation, or in connection with any Transaction, except as specifically set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and the undertakings of each Party to the other, the Authority and the Contractor acting as aforesaid and each binding itself, its successors and assigns, do mutually covenant, promise and agree as follows:

ARTICLE 1 - TRANSACTION TERMS AND CONDITIONS

Section 1.01. Each and all Transaction(s) shall be entered into upon the City’s issuance of a Confirmation that complies with the requirements of this Agreement and approval of the Confirmation by the Executive Director of the Authority. The Contractor is required to accept and execute a Confirmation issued by the City that complies with the terms of this Agreement within 30 days of the date the Confirmation.

Section 1.02. The Confirmation shall explicitly state that the provisions of Articles 1, 2, 3, 4,

5, 6 and 7 of this Agreement are incorporated by reference thereto and the Confirmation shall incorporate by reference the general provisions of this Agreement which the Contractor and the City determine to be appropriate for the Transaction. The Confirmation issued hereunder is subject to annual appropriations by the City. The Confirmation shall include:

- (a) The location(s) of the Collection Area (as hereinafter defined) maintained by the City pursuant to Section 2.02 of this Agreement.
- (b) The hours of operation and all applicable federal, state, and local laws, regulations and rules for the Collection Area (as hereinafter defined) adopted by the City.
- (c) The number of Collection Containers (as hereinafter defined) that shall be provided by the Contractor.
- (d) The weighing procedures for Acceptable Materials.
- (e) The invoicing and payment procedures for any amounts owed to the Contractor by the City including the time period within which such payment shall be made.
- (f) The status reports, if any, that the City may require the Contractor to submit regarding the Collection and Composting Services being performed by the Contractor pursuant to such Confirmation.
- (g) An acknowledgement by the Contractor and the City that the Authority shall have no obligations under the Confirmation except as otherwise explicitly stated in this Agreement.
- (h) The term of the Confirmation, which shall not run beyond the term of this Agreement.
- (i) The aggregate amount of any limitation on the total payments to be made by the City to the Contractor under the Confirmation.

Section 1.03. The Transaction shall be one integrated, bilateral contract between the parties under the related Confirmation. Any inconsistency between any terms of this Agreement and any terms of the Confirmation shall be resolved in favor of the terms of such Confirmation.

Section 1.04. With respect to the Transaction involving the Contractor and the City, the Authority shall not, under any circumstances, (a) have any obligations under the related Confirmation, (b) be responsible for amounts due to or from the Contractor or the City under the related Confirmation, or in connection with such Transaction, and (c) be liable to either the Contractor or the City under the related Confirmation, or in connection with such Transaction.

ARTICLE 2 - OBLIGATIONS OF THE CONTRACTOR AND THE CITY

Section 2.01. The Contractor shall provide the Collection and Composting Services as set forth in this Agreement, in the Contractor's proposal, attached hereto as Exhibit A and incorporated herein by reference, and in the Request for Proposals dated October 10, 2024, issued by the Authority, including any addenda thereto, and the Insurance Requirements, all of which are

attached hereto as Exhibit B and Exhibit C and incorporated herein by reference. In the event of any conflict or inconsistency among these documents, the order of precedence for resolving any such conflict or inconsistency shall be: Agreement, Request for Proposals, Contractor's proposal.

Section 2.02. The City will provide a paved or hard packed area for the placement of Collection Containers supplied by the Contractor (the "Collection Area") for the collection of organic materials. The City will provide the Contractor with access to the Collection Area for the purpose of delivery and removal of Collection Containers during the hours of normal operation as determined by the City.

All Collection Containers furnished by the Contractor shall remain its property. The City shall not overload, move, or alter any Container, or allow a third party to do so, and shall use it only for its intended purpose. At the termination of this Agreement, Contractor's Containers shall be in the condition in which they were provided, normal wear and tear excepted. The City shall provide safe and unobstructed access to the Containers on the scheduled collection day. The City shall replace or repay the Contractor for any Container lost or damaged beyond normal wear and tear solely caused by the City, provided for Collection and Composting Services under the Master Service Agreement, if loss of or damages to Containers have been adequately documented by the Contractor and submitted in writing to the Authority and the City, to be reviewed and approved at the Authority and the City's full discretion. The City warrants that the Collection Area is sufficient to bear the weight of Contractor's Containers and vehicles and agree that Contractor shall not be responsible for any damage to pavement or any other surface resulting from the weight of Containers or vehicles used to perform the services.

The Contractor shall follow all applicable federal, state, and local regulations, as well as all rules set by the City and communicated, in writing, to the Contractor for the Collection Area.

Section 2.03. The City will ensure that the Collection Area is available to receive Acceptable Material (as hereinafter defined) by the first day of the term of this Agreement, as set forth in Article 4 of this Agreement. The Collection Area shall be sited, operated, monitored, and otherwise maintained in a manner that is protective of human health and the environment and operated in compliance with all applicable federal, state, and local laws and regulations.

Section 2.04. Contractor shall be obligated to accept fruits and vegetables, eggshells, gourds, grains, bread, pasta, coffee grounds, paper tea bags, dairy, and meats ("Acceptable Material"). Acceptable Materials exclude produce stickers, plastic bags, oils, compostable tableware, pet waste, rubber, and glass. The Contractor shall provide Collection Containers for the acceptance of Acceptable Material at the Collection Area, remove Collection Containers, and promptly replace each Collection Container with an empty one. Each Collection Container provided by the Contractor shall be agreed upon, in writing, by the City. Upon acceptance by the Contractor of Acceptable Material, the Contractor shall be responsible for the removal, transportation, and delivery of the Acceptable Material to a designated compost facility.

Section 2.05. The City will determine how many Collection Containers will be in the Collection Area. All covered and loaded Collection Containers shall not be stored at the Collection Area for more than 24 hours after the scheduled collection day in the City's Confirmation with the

Contractor. In the event the site is closed (scheduled or unscheduled) for the business day(s) planned to swap the Collection Container(s), said Containers must be swapped the next operation day.

Section 2.06. Subject to the terms and conditions of this Agreement, as part of the Collection and Composting Services the Contractor shall, in accordance with all applicable federal, state, and local laws and regulations, accept and remove the Collection Container(s) in the Collection Area. The Contractor may inspect the collection bin for unacceptable material and remove any large unacceptable materials and place in the trash onsite. Alternatively, if the contractor deems that the amount of unacceptable material is too high, the contractor may reject the entire bin and request that all contents be dumped into the trash.

Section 2.07. The Contractor shall not retain the services of any subcontractors for the performance of Collection and Composting Services in connection with any Transaction without the prior written consent of the City, which consent may be withheld in the exercise of the City's sole discretion. The City may require the subcontractor to acquire and maintain applicable insurance policies that are required by the Contractor.

Section 2.08. Prior to the date that the Contractor begins providing Collection and Composting Services to the City, the City will appoint an individual to interact with the Contractor on its behalf during the term of this Agreement (the "Contract Officer"). The Contract Officer may from time to time give the Contractor a directive, oral or written, notifying the Contractor of work, in addition to the Collection and Composting Services, to be performed under a Confirmation. If requested to do so, the Contractor shall, promptly upon the receipt of such a directive, furnish to the Contract Officer a preliminary written description of the work that the Contractor proposes to undertake in implementing the directive. This directive shall include estimates of the compensation to be earned in performing the work and (if requested by the Contract Officer) the date by which the work will be completed. Following such consultations, the Contractor, if requested to do so, shall submit to the Contract Officer a final written description of the work to be undertaken. The final written description shall include an identification of any subcontractors to be used and a statement specifying in reasonable detail the breakdown of compensation to be earned by the Contractor and its subcontractors in performing the work; and (if requested by the Contract Officer) the latest date by which the work will be completed. Upon the written approval of the City, such final written description shall constitute a "Confirmation." The Confirmation shall be binding upon the Contractor and shall be subject to modification, amendment or withdrawal by the Contractor only with the express written consent and approval of the City.

Section 2.09. The Contractor shall not be obligated to perform, and the City will not be obligated to compensate the Contractor for, any work which is outside the scope of the Collection and Composting Services set forth in this Agreement or any Confirmation.

Section 2.10. Each month that the Contractor performs Collection and Composting Services under a Confirmation, the Contractor will provide the Authority and the City with an electronic copy of all invoices, reports, and weight tickets to confirm the work performed and the performance of Collection and Composting Services by the Contractor during the previous month. The Contractor shall maintain all documents and records related to work performed

pursuant to the terms of this Agreement and shall, upon the request of the Authority or the City, deliver to the Authority and the City all information, data, documents, records, reports, drawings, and the like prepared in the course of performing the Collection and Composting Services pursuant to a Confirmation (including, without limitation, information regarding the names and addresses of any persons, firms, or agencies dealt with by the Contractor in the performance of such work). All materials prepared by the Contractor in connection with this Agreement, including but not limited to records, drawings and reports shall be the sole and absolute property of the City. The City reserves the right to use any such material in any manner. Any use, reuse, or modification of the documents shall be at the City's sole risk without liability or legal exposure to the Contractor unless approved in writing by the Contractor prior to such reuse or modification.

Section 2.11. The Contractor shall provide, at the Contractor's own expense, all personnel needed to perform the Collection and Composting Services, or work required under any Confirmation. All such personnel shall be qualified and authorized under applicable federal, state, and local laws and regulations to perform their respective functions. The Contractor shall ensure that none of the Contractor's employees has any direct or indirect interest, which would conflict in any manner with the performance of the Contractor's performance of its obligations under this Agreement or any Confirmation. The Contractor shall be responsible for any withholding taxes and social security payment due as a result of payment made by the City to the Contractor.

Section 2.12. The Price Proposal Form, incorporated in Exhibit A, Contractor's Proposal, to this Agreement shall be firm through June 30, 2026. The Authority will consider an escalation to the Price Proposal Form, effective July 1, 2026 and annually thereafter, in accordance with the appropriate inflation adjustor, if requested (i.e., the calculations submitted) in writing by the Contractor, prior to June 30 of each year. The inflation adjustor shall be 100% of any change in the Bureau of Labor Statistics Consumer Price Index ("CPI"). The CPI shall be the CPI for all Urban Consumers for Baltimore-Columbia-Towson, MD - All Items (1982-84=100).

For the CPI for Baltimore-Columbia-Towson, MD, the July 1, 2026 adjustment shall compare the most recently reported CPI as of July 1, 2026 (the April 2026 reference month, anticipated to be posted in May 2026) to the April 2025 reference month, posted in May 2025. Thereafter the most recent CPI reported on July 1st of the current year (the April reference month, usually posted in May) will be compared to the CPI used from the previous period (the April reference month, usually posted in May).

The most recent reported CPI as of July 1st of current year less the CPI used from previous year equals the index point change. Divide the index point change by the CPI used in the previous year and add 1 to equal the inflation adjustor. The inflation adjustor shall be rounded to the second decimal place. The maximum inflation index increase, for each one-year period, shall not exceed 1.04, or 4%. The final adjusted price shall be rounded to the nearest thousandth, the third decimal place.

ARTICLE 3 – EVENTS OF DEFAULT; REMEDIES FOR NONPERFORMANCE; TERMINATION

Section 3.01. The following constitute Events of Default under this Agreement: the Contractor materially fails, or refuses, to comply with any of the terms of this Agreement, or a Confirmation, including (1) if the Contractor fails to provide sufficient Collection Containers, fails to accept Acceptable Material from the Collection Area, fails to provide Collection and Composting Services, or fails to perform any of its other obligations in connection with a Transaction, and such failure is not excused under the terms of the Confirmation or by the City's failure to perform its obligations in connection with the Transaction; (2) the failure by a Contractor to execute a Confirmation requested by the City as provided in Section 1.01; (3) failure of the Contractor to provide required invoices, reports, and weight tickets within 30 days after the date due pursuant to Section 2.10; and (4) as provided in Sections 3.03, 3.04, and 3.07 of this Master Service Agreement. If an Event of Default is not cured by the Contractor within 30 days of written notice from the City, the City may terminate the applicable Confirmation. The right to terminate is in addition to, and does not constitute a waiver of, the right of the Authority and/or the City to damages incurred as a result of a breach of the Agreement or of a Confirmation by Contractor, including the cost to make alternative arrangements to obtain performance of the Collection and Composting Services should Contractor fail to provide the services in accord with the Agreement and/or Confirmation.

Section 3.02. If the City fails to provide a Collection Area for the collection of Acceptable Material or fails to compensate the Contractor for Collection and Composting Services in accordance with the Confirmation, and such failure is not excused under the terms of the Confirmation or by the Contractor's failure to perform its obligations in connection with the Transaction, then the Contractor may terminate the applicable Confirmation upon 30 days' written notice to the City. In such an event, the City will be liable to the Contractor for the cost of work performed up to the date of termination. The Contractor shall provide a copy of any such termination notice to the Authority.

Section 3.03. The Authority and the City reserves the right to inspect the Contractor's Facilities and sites at any time, during the Facility's regular operating hours, unless extenuating/emergency circumstances warrant other times, as communicated in writing, after the execution of this Agreement. The Authority may terminate this Agreement or the City may terminate a Confirmation if, in the reasonable opinion of the Authority or the City, as the case may be, the Contractor's Facilities or sites have developed an unacceptable record of non-compliance with applicable federal, state, or local laws or regulations, or, in the reasonable opinion of the Authority or the City, have an unsatisfactory method of operation or site conditions, either of which will constitute an Event of Default.

Section 3.04. The Authority may terminate this Agreement or the City may terminate a Confirmation, in each case, without liability to the Contractor, upon the occurrence of one any of the following conditions:

- (a) An Event of Default as set forth in Section 3.01.
- (b) The Contractor, or any of the Contractor's officers, partners, principals, or

employees, is convicted of a crime arising out of, or in connection with, the procurement of work to be done or payment to be made under this Agreement or a Confirmation.

- (c) The Contractor is adjudged bankrupt, or a petition for the appointment of a receiver is filed, or an assignment for the benefit of creditors is made, or the Contractor becomes insolvent during the term of this Agreement.
- (d) Contractor fails to maintain required Insurance, the required performance bond/letter of credit (or the equivalent amount of guaranteed funds in the form of a cashier's check), or financial responsibility requirements.

Section 3.05. Upon termination of this Agreement or Confirmation, the Contractor shall promptly remove the Collection Containers from the applicable Collection Area(s) and shall only be paid for the earned value of work performed up to the date of termination under the terminated Confirmation(s), as determined by the City. Under no circumstances shall Contractor be entitled to payment of any future costs or anticipated profits under any terminated Confirmation(s). If this Agreement, or any Confirmation, is terminated because the Contractor, or any of the Contractor's officers, partners, principals, or employees is convicted of a crime arising out of, or in connection with, the procurement of work to be done or payment to be made under any Confirmation, then the Contractor shall refund to the City any and all profits realized under such Confirmation. The rights and remedies set forth herein shall be in addition to, and the exercise thereof shall in no way be considered and construed as a waiver of, any other legal or equitable rights of the Authority or the City.

Section 3.06. The City may, without liability, terminate a Confirmation for its own convenience upon written notice to the Contractor at least 60 days prior to the effective date for such termination. In the event of any such termination, the Contractor shall only be entitled to compensation for the earned value of work performed up to the date of such termination.

Section 3.07. If the Contractor fails to perform its obligations pursuant to this Agreement, as further set forth in any Confirmation, and that failure to perform creates a danger to health or safety at the Collection Area of the City that is not cured within 24 hours of written notice to the Contractor that the condition exists, such a failure constitutes a default under this Agreement for which the Agreement may be terminated. Irrespective of whether or not the Agreement is so terminated, the Contractor will be liable for any and all damages caused by this failure to perform, including but not limited to the costs to make alternative arrangements to have the obligations performed.

ARTICLE 4 - TERM

Section 4.01. The initial term of this Agreement begins on July 1, 2025 and ends on June 30, 2028. The allowance of two 3-year options will each be made at the Authority's sole discretion. Any Confirmation shall terminate according to the provisions of the Confirmation, but no later than the end of the term of this Agreement.

ARTICLE 5 - REPRESENTATIONS AND WARRANTIES

Section 5.01. On the date of this Agreement and the date of entering into the Confirmation, the Contractor represents and warrants to the Authority and the City that:

(a) It is duly organized, validly existing, in good standing under the laws of the jurisdiction of its formation, qualified to conduct business in the State of Maryland and in good standing under the laws of the State of Maryland.

(b) It has all regulatory authorizations and approvals necessary for it to legally perform its obligations under this Agreement and each Confirmation.

(c) The execution, delivery, and performance of this Agreement and each Confirmation are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any applicable law, rule, statute or regulation order.

(d) This Agreement, each Confirmation, and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms.

(e) It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it, which would result in it being or becoming bankrupt.

(f) There is no pending or, to its knowledge, threatened against it, any legal proceeding that could materially adversely affect its ability to perform its obligations under this Agreement and each Confirmation.

(g) It has not employed or retained any person, partnership, or corporation, other than a bona fide employee or agent working for the Contractor, to solicit or secure this Agreement, and that the Contractor has not paid or agreed to pay any person, partnership, or corporation, other than a bona fide employee or agent, any fee, or any other consideration, contingent upon the making of this Agreement.

(h) No employee of the Authority or the City, whose duties as such employee include matters relating to or affecting the subject matter of this Agreement, shall, while so employed, become or be an employee of the Contractor.

Section 5.02. Upon any breach of the representations or warranties of this Article, the Authority or the City, may terminate this Agreement without liability. The rights and remedies set forth herein shall be in addition to, and the exercise thereof shall in no way be considered and construed as a waiver of, any other legal or equitable rights of the Authority or the City.

ARTICLE 6 - DISPUTES

Section 6.01. The Contractor and the Authority shall exercise reasonable efforts to informally resolve all disputes under this Agreement according to the procedures in Section 6.02 below, before resorting to legal action.

Section 6.02.

(a) Whenever a dispute arises under this Agreement a designated representative of each

Party with authority to resolve the matter on behalf of such Party shall meet to discuss and attempt to resolve the matter.

(b) If the meeting of the designated representatives does not result in a resolution of the dispute, each Party may continue to attempt to resolve the dispute by submitting a written notice to the other Party describing the specific basis of the dispute.

(c) Within 15 calendar days after the receipt of written notice, an officer of each Party authorized to resolve such dispute shall meet and attempt to settle the dispute. If the Parties reach agreement, then they shall immediately take any action agreed upon and make any payments required. If the Parties fail to reach agreement, then this informal dispute resolution process will be deemed concluded.

Section 6.03. After unsuccessfully concluding the informal dispute resolution proceedings described in Section 6.02 above, either Party may then resort to any legal recourse available to obtain resolution of the dispute. Formal disputes shall be governed by, subject to, and construed in all respect in accordance with the laws of the State of Maryland without reference to the conflict of laws and rules thereof.

Section 6.04. The provisions of this Article 6 shall not limit the rights of the Parties to terminate this Agreement in accord with its provisions or affect the effectiveness of a termination of this Agreement or a Confirmation made in accordance with the provisions of this Agreement.

ARTICLE 7 - MISCELLANEOUS PROVISIONS

Section 7.01. The Contractor shall comply with all applicable federal, state, and local legal and regulatory requirements in the performance of its obligations under this Agreement and any Confirmation. The Contractor shall obtain and maintain, at the Contractor's own expense, any licenses, permits or insurance needed to comply with such requirements. During the term of this Agreement, the Contractor shall not at any time be in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits.

Section 7.02. The Contractor shall conduct itself in a manner consistent with its status as a contractor of the Authority and the City under the terms of this Agreement and any Confirmation and shall neither hold itself out as, nor claim to be, an agent, representative, officer or employee of the Authority or the City by reason hereof, and shall not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an agent, representative, officer or employee of the Authority or the City. Nothing herein shall be construed as authorizing the Contractor to enter into any contract or agreement, or to incur and obligation whatsoever, on behalf of the Authority or the City.

Section 7.03. The Contractor shall indemnify and hold harmless the Authority and its governing board, members (including the City under Confirmations), officers, agents, and employees from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including reasonable attorneys' fees, (including those related to bodily injury, sickness, disease or death sustained by any person or persons or on account of injury or damages to or destruction of any property), directly or indirectly arising out

of, relating to or in connection with the Contractor's performance or omission of any act in connection with this Agreement (including any Confirmation), unless it is the result of intentional misconduct or gross negligence of the Authority and/or the City; and the Contractor shall and does hereby assume and agrees to pay for the defense of all such claims, demands, suits and proceedings, including reasonable attorneys' fees. The provisions of this Section 7.03 shall survive, and shall continue in full force and effect for a period of three years following the termination or expiration of this Agreement, but only to the extent that the act or event giving rise to indemnification hereunder occurred prior to such termination or expiration and only to the extent the Contractor is provided with written notice of a claim under the indemnification provisions of this Section 7.03 on or before the expiration of such three year period.

Section 7.04. The Contractor shall procure, as necessary, and maintain, until the termination of this Agreement, the insurance at the limits described in Exhibit B. The Contractor shall maintain the minimum insurance coverages required by this Agreement and ensure that the insurance policy will not be canceled, interrupted or otherwise modified to the potential detriment of the Authority without first providing the Authority with 30 days advance written notice (or such other written notice as may be provided by law) of such cancellation, interruption or modification.

Section 7.05. Prior to the start of the term of the Agreement, the Contractor shall provide the City, with a copy to the Authority, with a performance bond, letter of credit, or cashier's check in the amount of \$10,000, with the obligee being the City, to cover the entire term of the Agreement. In the event of that Contractor secures a performance bond or letter of credit that expires prior to the end of the term of the Agreement, and such bond is not renewed to cover the remaining term, Contractor shall secure a replacement performance bond or letter of credit, in the same amount, at least 30 days prior to the expiration of the original performance bond or letter of credit. The performance bond or letter of credit must be in effect for the term of this Agreement. In the event of that the Contractor secures a performance bond or letter of credit for a Confirmation that expires prior to the end of the term of the Agreement, and such bond is not renewed to cover the remaining term, Contractor shall secure a replacement performance bond or letter of credit, in the same amount, at least 30 days prior to the expiration of the original performance bond or letter of credit. If the Contractor provides a cashier's check to the Authority, in lieu of a performance bond or letter of credit, the Authority will cash the cashier's check and hold the full amount in the Authority's checking account for the duration of the Agreement OR, at its sole option, the Authority will cash the cashier's check and the Contractor will pay for an escrow account to hold the full amount for the duration of the Agreement. Prior to the start of the term of the Agreement, the Authority will advise the Contractor as to whether or not an escrow account will be required. Upon completion or termination of the Agreement, other than upon an Event of Default, the Authority will return the full amount (or any remaining balance in the event the Authority is required to draw upon the funds as a result of Contractor's failure to perform under this Agreement or the Confirmation, as applicable) of the cashier's check to the Contractor.

Section 7.06.

- (a) The Contractor shall not release, other than to the Authority or the City, or publish any

information, reports, or documents relating to work performed under this Agreement without the prior express written consent of the Authority except for information, reports, or documents already in the public domain, already in possession of the Contractor, received from a third party with a right to disclose such information, or required to be disclosed by operation of law.

(b) The Contractor has a special duty to the Authority and the City to maintain confidentiality of documents, information, and records that come under the Contractor's control. The Contractor shall refer to the Authority any and all requests for information from persons other than employees of the Contractor, the Authority or the City.

Section 7.07. The Contractor and the Authority hereby acknowledge and agree that (a) the Authority is entering into this Agreement on behalf of and for the benefit of the City, (b) under no circumstances shall the Authority (i) have any obligation or liability to the Contractor or the City under any Confirmation, or in connection with any Transaction or (ii) be obligated to perform any obligation of the City.

Section 7.08 The Contractor shall not assign this Agreement or any Confirmation or its rights hereunder or thereunder without the prior written consent of the Authority and the City (in the case of a Confirmation), which consent may be withheld in the exercise of the Authority's and the City's sole discretion. Any assignment is in violation of this Section 7.08 and shall be null and void.

Section 7.09. The Company shall not discriminate or permit discrimination against a person because of race, color, religion, national origin, sex, sexual orientation, gender identification, age, marital status, or physical or mental handicap unrelated in nature and extent so as to reasonably preclude the performance of the employment and shall comply with all applicable laws regarding equal opportunity and non-discrimination. This provision is a material term of this Agreement.

Section 7.10. This Agreement shall be governed in accordance with the laws of the State of Maryland without reference to the conflict of laws rules thereof. The Contractor and the Authority hereby agree that any legal proceedings which may arise under this Agreement shall be brought in the Circuit Court of the City which is a party to the Confirmation(s) at issue in the dispute. The Contractor agrees that it shall submit to the jurisdiction of that Circuit Court for the purposes of all legal proceedings that may arise under the Agreement.

Section 7.11. If any provision hereof shall for any reason be held to be invalid or unenforceable, the validity or unenforceability of such provision shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid and unenforceable provision had not been contained herein.

Section 7.12. This Agreement may not be modified or amended except by an instrument in writing signed by authorized representatives of the Contractor and the Authority.

Section 7.13. All notices, consents, approvals and requests ("Notices") provided for or permitted to be given under this Agreement must be in writing, submitted by mail or email. Notices to the Authority or the Contractor must be delivered to such Party at the address for

such Party set forth in first paragraph of this Agreement or to the following email addresses:

Northeast Maryland Waste Disposal Authority: authority@nmwda.org

[Organics bin Contractor]: _____

Notices shall be (a) sent by certified U.S. Mail with return receipt requested (with confirmation thereof) or (b) delivered personally (including delivery by private courier services) or (c) emailed to the email addresses provided in this Section 7.13, or otherwise, as provided in writing by the designated representative of each Party. Such Notices shall be deemed to be duly given when received unless the day of receipt is not a business day, in which case such delivery shall be deemed to be made as of the next succeeding business day.

DRAFT

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

**NORTHEAST MARYLAND WASTE
DISPOSAL AUTHORITY**

Attest:

Andrew Kays
Executive Director

Name

[Organics bin Contractor]

Attest:

Name: _____
Title: _____

Name

EXHIBIT A - INSURANCE REQUIREMENTS

General Insurance Requirements

- A. Company shall not commence services until Company has obtained, at Company's own expense, all of the insurance as required hereunder and such insurance has been approved by Authority. Approval of insurance required of Company will be granted only after submission to Authority of original certificates of insurance signed by authorized representatives of the insurers.
- B. Company shall require its Subcontractors to maintain insurance during the term of the Agreement, to the same extent required of Company.
- C. All insurers underwriting Company's insurance must be allowed to do business in Maryland and acceptable to Authority. The insurers must have a policyholders' rating of "A-" or better, and a financial size of "Class VII" or higher in the latest evaluation by A. M. Best Company, unless Authority grants specific approval for an exception.
- D. All insurance policies required hereunder shall be endorsed to provide that the policy is not subject to cancellation, non-renewal, material change or reduction in coverage until thirty (30) days prior written notice has been given to Authority.
- E. Insurance provided to Authority and its directors, officers and employees by Company shall be primary, and any other insurance, coverage or indemnity available to Authority and its directors, officers and employees shall be excess of and non-contributory with insurance provided by Company.
- F. If any liability insurance purchased by Company has been issued on a "claims made" basis, Company must comply with the following additional conditions.
Company must either:
 - 1. Agree to provide certificates of insurance to Authority evidencing the coverages for a period of two years after the Agreement terminates or expires, whichever is earlier. Such certificates shall evidence a retroactive date no later than the beginning of the services under this Agreement, or
 - 2. Purchase an extended (minimum two years) reporting period endorsement for each such "claims made" policy in force as of the date the Agreement terminates or expires, whichever is earlier and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself. Such certificate or copy of the endorsement shall evidence a retroactive date no later than the beginning of the services under this Agreement.

Company's Liability Insurance

Company shall purchase the following liability insurance coverages for not less than the limits specified below or required by law, whichever is greater:

1. Commercial general liability insurance that insures against claims for bodily injury, property damage, and personal and advertising injury arising out of or in connection with services under this Agreement, whether such operations be by Company, its employees or Subcontractors or their employees. The minimum limits of liability for this insurance are as follows:

- \$1,000,000 combined single limit - each occurrence
- \$2,000,000 combined single limit - general aggregate
- \$2,000,000 combined single limit - products/completed operations aggregate

This insurance shall include coverage for all of the following:

- Any general aggregate limit shall apply per project;
- Liability arising from premises and operations;
- Liability arising from the actions of independent contractors;
- Liability arising from products and completed operations;
- Contractual liability including protection for Company from bodily injury and property damage claims arising out of liability assumed under this Agreement; and
- Liability arising from the explosion, collapse and underground (XCU) hazards.

This insurance shall name Authority and its directors, officers, and employees and the City and its directors, officers, and employees as insureds with respect to liability arising out of or in connection with services under this Agreement, and must include a waiver of subrogation; the certificate of insurance must so state this.

2. Business auto liability insurance with a minimum combined single limit of \$1,000,000 per accident and including coverage for bodily injury and property damage claims arising out of:
 - The maintenance, use or operation of any auto; and
 - Contractual liability including protection for Company from bodily injury and property damage claims arising out of liability assumed under this Agreement.
3. Workers compensation insurance with statutory benefits as required by any state or Federal law, including standard "other states" coverage and employers liability insurance with minimum limits and must include a waiver of subrogation:
 - \$100,000 each accident for bodily injury by accident;

- \$100,000 each employee for bodily injury by disease; and
 - \$500,000 policy limit for bodily injury by disease.
4. Umbrella excess liability or excess liability insurance with minimum limits of:
- \$1,000,000 each occurrence;
 - \$1,000,000 aggregate other than products/completed operations and auto liability; and
 - \$1,000,000 products/completed operations aggregate, and including all of the following coverages on the applicable schedule of underlying insurance:
 - commercial general liability;
 - business auto liability; and
 - employer's liability.

This insurance shall name Authority and its directors, officers and employees as insureds with respect to liability arising out of or in connection with services under this Agreement, and must include a waiver of subrogation; the certificate of insurance must so state this.

5. Environmental Liability Coverage

The Company shall acquire and maintain Environmental Impairment Liability Insurance including sudden, non-sudden and gradual exposure, for all of the Company's operations hereunder, including but not limited to disposal of Waste pursuant to the Master Service Agreement. The Company shall purchase limits of \$1,000,000 per occurrence and \$2,000,000 annual aggregate for any release of toxics or hazardous Waste or other hazardous substance requiring monitoring, cleanup or corrective action under CERCLA. A combination of primary and excess coverage is acceptable, provided that there are no pollution exclusions in either policy and a waiver of subrogation is included.

The Company must provide the Authority with evidence that the compost facility site owner carries insurance for site property damage. In addition, the Company must provide the Authority with evidence that the disposal site carries the required amount of environmental impairment liability insurance.

EXHIBIT B - REQUEST FOR PROPOSALS

EXHIBIT C - CONTRACTOR'S PROPOSAL