

**MASTER SERVICE AGREEMENT**

**BETWEEN**

**NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY**

**AND**

**TURBOHAUL, INC.**

## **TABLE OF CONTENTS**

RECITALS

ARTICLE 1 - TRANSACTION TERMS AND CONDITIONS

ARTICLE 2 - OBLIGATIONS OF THE CONTRACTOR AND THE MEMBER JURISDICTION

ARTICLE 3 - REMEDIES FOR NONPERFORMANCE; TERMINATION

ARTICLE 4 - TERM

ARTICLE 5 - REPRESENTATIONS AND WARRANTIES

ARTICLE 6 - DISPUTES

ARTICLE 7 - MISCELLANEOUS PROVISIONS

EXHIBIT A  
CONTRACTOR'S PROPOSAL

EXHIBIT B  
INSURANCE REQUIREMENTS

EXHIBIT C  
REQUEST FOR EXPRESSIONS OF INTEREST

EXHIBIT D  
FORM OF PERFORMANCE BOND, LETTER OF CREDIT OR CASHIER'S CHECK

## **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, and TurboHaul, Inc. (DBA TurboHaul) (the “Contractor”), an entity in good standing under the laws of Maryland, with offices at 6201 Robinwood Road, Baltimore, MD 21225. 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 Anne Arundel County, Maryland, Baltimore City, Maryland, Baltimore County, Maryland, Carroll County, Maryland, Frederick County, Maryland, Harford County, Maryland, Howard County, Maryland and Montgomery County, Maryland (each a “Member Jurisdiction” or “Member”), issued a Request for Expressions of Interest for plastic film and related Acceptable Materials (as hereinafter defined) collection, transportation, processing and recycling services (the “Recycling Services”) for each Member Jurisdiction and the Contractor has been selected to provide such Recycling Services. Currently, Montgomery County, Maryland is the only Member Jurisdiction interested in the service as proposed, thus is the only Member Jurisdiction incorporated under this Agreement, however, other Member Jurisdictions may piggyback the terms of this Agreement, if desired. This Agreement and its related Confirmation is to be treated as a pilot program, in which the Recycling Services (and the various operation options) may be updated over time (detailed below), since this is an entirely new program for the Authority (and the applicable Member Jurisdiction) in this form.

2. Pursuant to this Agreement, the Contractor will enter into a transaction with each Member Jurisdiction that elects to issue a Confirmation pursuant to which the Contractor shall provide Recycling Services to such Member Jurisdiction (each 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 Recycling Services of the Contractor to be provided to any Member Jurisdiction that decides to utilize the Recycling Services of the Contractor.

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

5. The Authority may assist a Member Jurisdiction 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 a Member Jurisdiction’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 a participating Member Jurisdiction that complies with the terms of this Agreement within 30 days of the date the Confirmation is issued by the Member Jurisdiction.

**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 Member Jurisdiction determine to be appropriate for the Transaction. The Confirmation issued hereunder is subject to annual appropriations by the Member Jurisdiction. The Confirmation shall include:

- (a) The location(s) of the Recycling Area (as hereinafter defined) maintained by the Member Jurisdiction 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 Recycling Area (as hereinafter defined) adopted by the Member Jurisdiction;

- (c) The number of Collection Containers (as hereinafter defined) that shall be provided by the Contractor;
- (d) The weighing procedures for Acceptable Materials (including through the Member Jurisdiction's manned permanent or portable scales, if applicable (as hereinafter defined));
- (e) The invoicing and payment procedures for any amounts owed to the Contractor by the Member Jurisdiction or to the Member Jurisdiction by the Contractor, including the time period within which such payment shall be made;
- (f) The status reports, if any, that the Member Jurisdiction may require the Contractor to submit regarding the Recycling Services being performed by the Contractor pursuant to such Confirmation;
- (g) An acknowledgement by the Contractor and the Member Jurisdiction 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; and
- (i) The aggregate amount of any limitation on the total payments to be made by the Member Jurisdiction 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 Member Jurisdiction, 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 Member Jurisdiction under the related Confirmation, or in connection with such Transaction, and (c) be liable to either the Contractor or the Member Jurisdiction under the related Confirmation, or in connection with such Transaction.

**ARTICLE 2 - OBLIGATIONS OF THE CONTRACTOR AND THE MEMBER**  
**JURISDICTION**

**Section 2.01.** The Contractor shall provide the Recycling 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 Expressions of Interest dated August 21, 2023, issued by the Authority, including any clarification, clarification request and 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 as follows: Agreement, Request for Expressions of Interest, Contractor’s Proposal, inclusive of clarifications.

**Section 2.02.** The Member Jurisdiction will provide a paved or hard packed area for the placement of Collection Containers supplied by the Contractor (the “Recycling Area”) for the collection of plastic film materials. The Member Jurisdiction will provide the Contractor access to the Recycling Area for the purpose of delivery and removal of Collection Containers/plastic film materials, as applicable, during the hours of normal operation as determined by the Member Jurisdiction. The Contractor shall follow all Federal, State and local, regulations and rules applicable to the Recycling Area.

**Section 2.03.** The Member Jurisdiction will ensure that the Recycling Area is sited, designed, constructed and available to receive plastic film materials by the first day of the term of this Agreement, as set forth in Article 4 of this Agreement. The Recycling Area shall be sited, constructed, operated, monitored, closed 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.** The Contractor shall be obligated to accept, but is not limited to accept the following (“Acceptable Material”):

Plastic film includes, but is not limited to, plastic films labeled with #2 or #4 recycling symbol (polyethylene films), clean and dry plastic grocery bags, bread bags, product wrap (such as the plastic wrapping around paper towels and toilet paper), dry cleaning bags, newspaper sleeves, clean and dry produce bags, ice bags (must be dry), wood pellet

bags, salt bags, clean cereal box liners, retail shopping bags, pallet wrap, stretch film, case overwrap (such as on water bottle and drink cases), shrink-wrap, mattress bags, furniture wrap, air pillow packaging material, plastic shipping envelopes, and film bubble wrap. Plastic film must remain clean, dry, and free from any other material or contaminants. Under 2% contamination per load is accepted. In loads with over 2% contamination, an additional charge for contaminated material will be assessed to cover sorting, additional transport, and tipping fees (as stipulated as an additional cost to the Member Jurisdiction at the price as set forth in the Contractor's Proposal and Clarification Letter).

Acceptable Material does **not** include biodegradable or compostable bags and packaging, pre-washed salad mix bags, resealable food storage bags (such as Ziploc® bags), frozen food bags, candy wrappers, chip and snack bags, six-ring packs, pet food bags, pet waste bags, netted mesh produce bags, hot dog or meat wrap packaging, personal protective equipment (gloves, masks, or protective wear), pool covers, backyard kiddie pools or ice rinks, inner tubes, lamination film, silage and hay bale wrapping, other plastic film utilized in agriculture, vinyl shower curtains, tablecloths, bedding or linen packaging, floral wrap, and other shiny, crinkly films.

The Contractor shall provide Collection Containers for the acceptance of Acceptable Material at the Recycling Area, promptly remove or empty full Collection Containers within 48 hours of receipt of written request by the Member Jurisdiction or the Authority, and promptly replace each full Collection Container with an empty one, as applicable. Each Collection Container provided by the Contractor shall be of a certain type. Collection Containers include, but are not limited to, sealed/enclosed, weatherproof non compacting containers, similar to plastic film containers onsite at existing grocery retailers, which are included in the per pound Price Proposal, and/or non-compacting, enclosed roll-off and/or C containers with side-doors, if requested by the Authority and Member Jurisdiction in writing (and as stipulated as an additional cost to the Member Jurisdiction at the price as set forth in the Contractor's Proposal and Clarification Letter as applicable). The Contractor shall also provide heavy-duty, 72" downstroke (vertical) baler, compactor/receiver roll-off units, if requested by the Authority and Member Jurisdiction in writing

(as stipulated as an additional cost to the Member Jurisdiction at the price as set forth in the Contractor's Proposal and Clarification Letter).

**Section 2.05.** The Contractor shall provide sufficient Collection Containers for the collection of all Acceptable Material delivered to the Recycling Area and shall ensure that at least one Collection Container with space available for the collection of Acceptable Material is available at all times. The Member Jurisdiction will determine how many Collection Containers the Contractor will be allowed to store at the Recycling Area. The number of requested collection containers shall be reasonable and commensurate with volume collection and flow. All covered and fully loaded Collection Containers shall not be stored at the Recycling Area for more than 24 hours of a business day, or as determined by a schedule in the Member Jurisdiction's Confirmation with the Contractor. In the event the site is closed (scheduled or unscheduled) for the business day(s) after the request to swap/empty the Collection Container(s), said Collection Containers must be swapped/emptied the next operation day.

**Section 2.06.** Subject to the terms and conditions of this Agreement, as part of the Recycling Services, the Contractor shall, in accordance with all applicable Federal, State and local laws and regulations, accept and recycle all Acceptable Material placed in the Collection Containers in the Recycling Area. The Contractor shall not dispose of any byproducts produced from the collection or recycling of Acceptable Materials in any landfill, or an expansion cell next to an existing landfill, that is, or is proposed to be, on the National Priority List of the Federal Superfund Program (40 CRF Part 300), the Maryland Department of the Environment's State Superfund Program, or a similar list under a similar program for any state.

**Section 2.07.** The Contractor shall not retain the services of any subcontractors for the performance of Recycling Services in connection with any Transaction without the prior written consent of the Authority and Member Jurisdiction, which consent may be withheld in the exercise of the Authority and Member Jurisdiction's sole discretion. The Authority and Member Jurisdiction 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 Recycling Services to a Member Jurisdiction, the Member Jurisdiction 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 additional work, within the scope of the Recycling 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 for 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 Member Jurisdiction, 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 Member Jurisdiction.

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

**Section 2.10.** Each month that the Contractor performs Recycling Services under a Confirmation, the Contractor will provide the Authority with an electronic copy of all invoices, recycling reports and weight tickets (as applicable). A copy of invoices, recycling reports and weight tickets (as applicable) will also be submitted to the Member Jurisdiction to confirm the work performed and the performance of Recycling 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 Member Jurisdiction, deliver to the Authority and the Member Jurisdiction all information, data, documents, records, reports, drawings, and the like prepared in the course of performing the Recycling 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 Member Jurisdiction. The Member Jurisdiction reserves the right to use any such material in any manner. Any use, reuse or modification of the documents shall be at the Member Jurisdiction's sole risk without liability or legal exposure to the Contractor unless approved in writing by the Contractor prior to such reuse or modification. For money owed to a Member Jurisdiction, 6% interest will be assessed for payments received 60 days after the end of the month invoiced.

**Section 2.11.** The Contractor shall provide, at the Contractor's own expense, all personnel needed to perform the Recycling 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 Member Jurisdiction to the Contractor.

**Section 2.12.** The Price Proposal Forms, incorporated in the Exhibit A, Contractor's Proposal, to this Agreement shall be firm through June 30, 2029. For additional clarification, per the Contractor's Proposal, the Member Jurisdiction guarantees the following minimum monthly participation and collection: 1,500 pounds per service, and one service per month. If the Member Jurisdiction does not collect enough Acceptable Material to warrant a request for collection in a given month, the Member Jurisdiction will still be charged the minimum monthly amount (1,500 pounds x \$0.25/pound), equaling a minimum charge of \$375 per month, to retain the Recycling Services and the related equipment, as well as the on-call availability of the Contractor to collect and recycle the Acceptable Material for the term of the Agreement. Each service of a collection container will be subject to a 1,500 pound minimum.

The Authority will allow for an escalation to the Price Proposal Forms, effective July 1, 2025 and annually thereafter, in accordance with the appropriate inflation adjustor, if requested by the Contractor (i.e. the calculations submitted) in writing, prior to July 1 of each year. The inflation adjustor shall be 100% of any change in the Bureau of Labor Statistics Consumer Price Index ("CPI"). The CPI applied for Montgomery County services shall be the CPI for all Urban Consumers for Washington-Arlington-Alexandria, MD - All Items (1982-84=100).

For the CPI for Washington-Arlington-Alexandria, MD, the July 1, 2025 adjustment shall compare the most recent reported CPI as of July 1, 2025 (the May 2025 reference month, anticipated to be posted in June 2025) to the May 2024 CPI reference month, posted in June 2024. Thereafter the most recent CPI reported on July 1st of the current year (the May reference month, usually posted in June) will be compared to the CPI used from the previous period (the May reference month, usually posted in June).

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.

### **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 Recycling Area, fails to provide Recycling 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 Member Jurisdiction's failure to perform its obligations in connection with the Transaction; (2) the failure by a Contractor to execute a Confirmation requested by a Member Jurisdiction as provided in Section 1.01; (3) failure of the Contractor to provide required invoices, recycling reports and weight tickets (as applicable) or make required payment within 60 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 five business days of notice from the Member Jurisdiction, the Member Jurisdiction 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 a Member Jurisdiction 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 Recycling Services should Contractor fail to provide the services in accord with the Agreement and/or Confirmation.

**Section 3.02.** If a Member Jurisdiction fails to provide a Recycling Area for the collection of Acceptable Material or fails to compensate the Contractor for Recycling 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 Member Jurisdiction. In such an event the Member Jurisdiction will be liable to the Contractor for the cost of work performed up to the date of termination.

**Section 3.03.** The Authority and each Member Jurisdiction reserves the right to inspect the Contractor's recycling facilities and sites at any time after the execution of this Agreement. The Authority may terminate this Agreement or a Member Jurisdiction may terminate a Confirmation if, in the reasonable opinion of the Authority or the Member Jurisdiction, as the case may be, the Contractor's recycling facilities or sites have or 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 Member Jurisdiction, 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 a Member Jurisdiction 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 Contractor provided Collection Containers from the applicable Recycling 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 Member Jurisdiction. 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 applicable Member Jurisdiction(s) 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 any Member Jurisdiction.

**Section 3.06.** A Member Jurisdiction may, without liability, terminate a Confirmation for its own convenience upon written notice to the Contractor at least 30 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 Recycling Area of a Member Jurisdiction that is not cured within 24 hours of notice to the Contractor that the condition exists, such a failure constitutes an Event of 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 term of this Agreement begins on the Effective Date and ends on 11:59 p.m. (local time) June 30, 2029. 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 each Confirmation, the Contractor represents and warrants to the Authority and each Member Jurisdiction 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 Member Jurisdictions, 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 a Member Jurisdiction, 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 a Member Jurisdiction.

## **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 each Member Jurisdiction 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 a Member Jurisdiction 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 a Member Jurisdiction. Nothing herein shall be construed as authorizing the Contractor to enter into any contract or agreement, or to incur any obligation whatsoever, on behalf of the Authority or a Member Jurisdiction.

**Section 7.03.** The Contractor shall indemnify and hold harmless the Authority and its governing board, members (including the Member Jurisdiction under the Confirmation), 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 Member Jurisdiction; 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 Authority with a performance bond, letter of credit or cashier's check in the amount of \$10,000 for each Confirmation with a Member Jurisdiction to which the Contractor is a party. If a Confirmation is entered into subsequent to the start of the term of the Agreement, the Contractor shall provide a performance bond, letter of credit or cashier's check in the same amount before the effective date of such Confirmation. The performance bond, letter of credit or cashier's check must be in effect for the term of this Agreement, and must be substantially in the form set forth in Exhibit D to this Agreement. In the event of that the Contractor secures a performance bond/letter of credit for a Confirmation that expires prior to the end of the term of the Agreement, and such performance bond/letter of credit is not renewed to cover the remaining term, the Contractor shall secure a replacement performance bond/letter of credit, in the same amount, at least 30 days prior to the expiration of the original performance bond/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 and/or Confirmation 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 and/or Confirmation. Prior to the start of the term of the Agreement and applicable Confirmations, the Authority will advise the Contractor as to whether or not an escrow account will be required. Upon completion or termination of the Agreement and/or Confirmations, 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. The Authority waives the requirement of a performance bond providing for the Authority as an

obligee for the term of this Agreement in recognition of the fact that the Recycling Services are provided as a part of a pilot program.

**Section 7.06.**

(a) The Contractor shall not release, other than to the Authority or a Member Jurisdiction, 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 each Member Jurisdiction 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 a Member Jurisdiction.

**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 each Member Jurisdiction, (b) under no circumstances shall the Authority (i) have any obligation or liability to the Contractor or a Member Jurisdiction under any Confirmation, or in connection with any Transaction or (ii) be obligated to perform any obligation of the Member Jurisdiction.

**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 Member Jurisdiction (in the case of a Confirmation), which consent may be withheld in the exercise of the Authority's and Member Jurisdiction'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 a Member Jurisdiction 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](mailto:authority@nmwda.org)

TurboHaul, Inc. (DBA TurboHaul): [KevinDaly@TurboHaul.com](mailto:KevinDaly@TurboHaul.com)

Notices shall be (a) sent by certified U.S. Mail with return receipt requested (with confirmation thereof), (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.



**EXHIBIT A**  
**CONTRACTOR'S PROPOSAL**

**EXHIBIT B**  
**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 affected Member Jurisdiction(s) 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 disposal site owner carries insurance for site property damage. In addition, the Company must provide the Authority with evidence that the disposal site, if a landfill, carries environmental impairment liability insurance for that site of at least \$10,000,000.



**EXHIBIT C**  
**REQUEST FOR EXPRESSIONS OF INTEREST**

**EXHIBIT D**

**FORM OF PERFORMANCE BOND, LETTER OF CREDIT OR CASHIER'S CHECK**

The performance bond, letter of credit or cashier's check must be in effect for the term of this Agreement, and must be substantially in the form set forth in this Exhibit D, as applicable.

**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(s)

Northeast Maryland Waste Disposal  
Authority

Penal Sum of Bond  
(express in words and figures)

Date of Contract: \_\_\_\_\_, 20\_\_

Date Bond Executed: \_\_\_\_\_, 20\_\_

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 Obligees 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.

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.

This Performance Bond is for the term beginning the \_\_\_\_\_ day of \_\_\_\_\_ and ending the \_\_\_\_\_ day of \_\_\_\_\_. Provided, however, that this bond may be continued in force by Continuation Certificate, executed by the Surety. If Surety elects to not renew the bond upon the expiration of any annual term, Surety shall provide written notice to both the Obligee and the Principal of such intention at least 60 days prior to the expiration of any such annual term.

Non-renewal or cancellation of the bond shall constitute a default under the bond and be the basis or trigger for a claim. Surety's liability under this Performance Bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this Performance Bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.

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 thereunder 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:

Witness

Partnership Principal

\_\_\_\_\_ (SEAL)

Name of Partnership

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

.....

Corporate Principal

Attest:

(Name of Corporation)

\_\_\_\_\_  
Corporate Secretary

President

AFFIX  
CORPORATE  
SEAL

.....

\_\_\_\_\_  
(Surety)

Attest:

\_\_\_\_\_  
Signature

By: \_\_\_\_\_

Title:

AFFIX  
CORPORATE  
SEAL

Business Address of Surety:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bonding Agent's name:

---

Agent's Address:

---

---

---

Approved as to legal form and sufficiency this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

FORM OF PERFORMANCE LETTER OF CREDIT

Date: \_\_\_\_\_

Northeast Maryland Waste Disposal  
Authority 100 South Charles Street  
  
Tower II - Suite 402  
Baltimore, MD 21201

ATTN: Executive Director:

1. We hereby establish, at the request of [NAME OF PROPOSER] (“the Company”), in your favor and for the account of The Northeast Maryland Waste Disposal Authority, a public body corporate and politic organized and existing under the laws of the State of Maryland (the “Authority”), our Irrevocable Letter of Credit, No. \_\_\_\_\_ (the Letter of Credit”), in the amount of \_\_\_\_\_ (\$\_\_\_\_\_) DOLLARS (the “Letter of Credit Amount”), effective \_\_\_\_\_ and expiring on \_\_\_\_\_ (the “Expiration Date”).
  
2. The Letter of Credit is being issued in support of the performance by the Company of its obligation to provide solid waste disposal services to the Authority as set forth in the **“MASTER SERVICE AGREEMENT BY AND BETWEEN NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY AND COMPANY TO PROVIDE REUSE/RECYCLING SERVICES FOR MEMBER JURISDICTIONS,”** dated \_\_\_\_\_, 2024 (the “Agreement”).
  
3. We hereby irrevocably authorize you to draw on us, at sight and in one or several drawings, an amount up to the Letter of Credit Amount. Such draft(s) shall be in writing and signed by your authorized representative and shall be accompanied by a completed certificate in the form attached hereto as Exhibit 1 (such draft accompanied by such certificate being collectively your “Draft”). The Draft shall be payable by us on-sight in accordance with paragraph 4 below. Funds under this Letter of Credit are available to you against your Draft (referring thereon to the number of this Letter of Credit) upon the occurrence of an Event of Default by the Company and the subsequent exercise by the Authority of its rights under the Agreement, all in accordance with the terms of such Agreement.



4. The Draft shall be dated the date of its presentation, and shall be presented to our office located at [NAME OF FINANCIAL INSTITUTION] and [ADDRESS OF FINANCIAL INSTITUTION]. If we receive your Draft at such office, in conformance with the terms and conditions hereof, on or prior to the Expiration Date, we will honor the same in accordance with the provisions hereof and your payment instructions by 5:00 p.m. on the next succeeding Business Day after presentation of your Draft. For purposes of this Letter of Credit, "Business Day" shall mean any day other than a Saturday, Sunday or public holiday under the laws of the [STATE]. If requested by you, payment under this Letter of Credit may be made by wire transfer of immediately available Federal Funds to your account in a bank on the Federal Reserve wire system or by deposit of immediately available funds into a designated account that you may establish with us. All drawings under the Letter of Credit will be paid with our own funds.

5. If a demand for payment delivered to us pursuant to the foregoing paragraph does not conform to the terms and conditions of this Letter of Credit, we will notify you of our intention to dishonor the same after presentation of the Draft by 5:00 p.m. on the next succeeding Business Day. Such notice of dishonor shall be promptly confirmed by written notice, specifying the number of this Letter of Credit, the date of the non-conforming Draft and the reasons that we are not honoring the same. Upon being notified that the Draft was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment prior to the Expiration Date.

6. Upon the earlier to occur of (a) payment to you or your account of the Letter of Credit Amount, or (b) the Expiration Date, we shall be fully discharged of our obligation under this Letter of Credit with respect to such Draft, and we shall not thereafter be obligated to make any further payments under this Letter of Credit in respect of such Draft to you or to any other person.

7. This Letter of Credit shall be governed by the International Code of Uniform Customs and Practices for Documentary Credits, Publication No. 500 (1993 Revision), including any amendments, modifications or revisions thereto. Communications with respect to this Letter of Credit shall be in writing and shall be addressed to [BANK], [ADDRESS OF BANK], specifically referring to the number of this Letter of Credit. We shall address communications to you at the address noted on the first page of this Letter of Credit unless otherwise advise by you in writing.

8. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein (including, without limitation, the Agreement), except only the Draft referred to herein; and any such reference shall not (unless otherwise provided herein) be deemed to incorporate by reference any such document, instrument or agreement except for such Draft.

Very truly yours,

[NAME OF FINANCIAL INSTITUTION]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_