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**AGREEMENT AND LEASE
FOR YARD TRASH PROCESSING SERVICES
BETWEEN MARTIN COUNTY AND CAMO FARMS, INC.**

The attached AGREEMENT AND LEASE FOR YARD TRASH PROCESSING SERVICES is effective the _____ day of _____ in the year 2021 between:

MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida (hereinafter COUNTY), located at 2401 S.E. Monterey Road, Stuart, FL 34996, and

The CONTRACTOR:
(hereinafter CONTRACTOR)

Camo Farms, Inc.
200 2nd Avenue S., #270
St. Petersburg, FL 33701

The Contract Name:

Yard Trash Processing, Transport & Management

The Contract Number:

RFB2021-3291

The Contract Term:

Five (5) years for the initial term, plus renewal options, but not to exceed 4 years of renewals

AGREEMENT AND LEASE FOR YARD TRASH PROCESSING SERVICES

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EXHIBITS

- A. Aerial photographs of Martin County's Center and Site
- B. Legal Description of Site
- C. Sample Monthly Activity Report
- D. Sample Invoice
- E. Contractor's Rate
- F. Form of Performance Bond
- G. FDEP Settlement Agreement
- H. FDEP Permit
- I. Memorandum of Lease

**AGREEMENT AND LEASE
FOR YARD TRASH PROCESSING SERVICES**

This Agreement and Lease for Yard Trash Processing Services (“Agreement”) is made and entered into this _____ day of _____, 2021 (“Effective Date”) by and between Martin County (“County”), a political subdivision of the State of Florida, and Camo Farms, Inc., (“Contractor”), an Oklahoma corporation, which is authorized to do business in the State of Florida.

RECITALS

WHEREAS, the County issued a Request for Bids (“RFB”) from qualified vendors that wish to receive, manage, process, transport, and beneficially reuse the Yard Trash generated in the County; and

WHEREAS, the Contractor submitted a bid in response to the County’s RFB (RFB No. 2021-3291); and

WHEREAS, the Contractor has represented to the County that it has the equipment, personnel, experience, and other resources necessary to provide the services required under this Agreement; and

WHEREAS, the County has relied upon the bid and other information provided by the Contractor concerning the Contractor’s ability to provide the services requested by the County; and

WHEREAS, after evaluating the bids that were submitted in response to the County’s RFB, the Board of County Commissioners (“Board”) has concluded that the Board should award this Agreement to the Contractor; and

WHEREAS, the Board wishes to use and the Contractor wishes to provide the Contractor’s services, subject to the terms and conditions contained in this Agreement; and

WHEREAS, the Board finds that entering into this Agreement with the Contractor is in the public interest and will protect the public health, safety, and welfare.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, and the mutual benefits provided hereunder, the receipt and sufficiency of which are hereby acknowledged, the Board and the Contractor agree that they shall be bound by and shall strictly comply with the following provisions of this Agreement:

SECTION 1: DEFINITIONS

The capitalized words and phrases in this Agreement are defined in this Section 1. The definitions contained in this Section 1 shall be used when interpreting this Agreement. In the event that a definition herein conflicts with a similar definition in a federal, state, or local law, the definition herein shall prevail when construing this Agreement. If a definition in this Agreement is inconsistent with the definition of the same term in Section 403.703, Florida Statutes, the definition in Section 403.703, Florida Statutes, shall prevail, but only to the extent necessary to resolve the inconsistencies between the two definitions.

- 1.1 **Administrator** means the County's Administrator or the Administrator's designee.
- 1.2 **Agreement** means this Agreement and Lease for Yard Trash Processing Services between the County and the Contractor.
- 1.3 **Applicable Law** means any local, state or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, directive, policy, standard or similar binding authority, or a judicial or administrative interpretation of any of the same, which is in effect or is enacted, adopted, promulgated, issued or enforced by a governmental body during the term of this Agreement, and relate in any manner to the performance of the County or Contractor under this Agreement.
- 1.4 **Board** means the Board of County Commissioners of Martin County, Florida.
- 1.5 **Building** means the enclosed metal building that is adjacent to the Site, approximately 36,000 square feet in size, and currently used for Processing C&D Waste.
- 1.6 **Center** means the land, structures, and other improvements at the County's "Transfer Station and Recycling Center," which is located at 9101 S.W. Busch Street in Palm City, Florida.
- 1.7 **Change in Law** means the adoption, promulgation, or modification of any Applicable Law after the Effective Date that directly and substantially affects the Contractor's or City's ability to perform under this Agreement. A Change in Law does not include a change in any tax law or workers' compensation law.
- 1.8 **Citation** means any warning letter, notice of violation, cease and desist order, or similar notification that the Contractor's operations on the Site are not in compliance with Applicable Law.
- 1.9 **Clean Debris** means any Solid Waste that is virtually inert, is not a pollution threat to ground water or surface waters, is not a fire hazard, and is likely to retain its physical and chemical structure under expected conditions of disposal or use. Clean Debris includes brick, glass, ceramics, and uncontaminated concrete, including embedded pipe or steel.
- 1.10 **Commencement Date** means the date when the Contractor begins to process Yard Trash at the Site. The Commencement Date is June 21, 2021.

- 1.11 **Construction and Demolition Waste** or "**C&D**" shall have the meaning set forth in Section 403.703(6), Florida Statutes, for construction and demolition debris, except that construction and demolition waste does not include land clearing debris and related vegetative material. In general, Construction and Demolition Waste means discarded materials that are generally considered to be not water-soluble and nonhazardous in nature, including steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber from the construction, renovation, or demolition of a structure.
- 1.12 **Consumer Price Index** or "**CPI**" means the "Consumer Price Index-All items in the U.S. City Average, All Urban Consumers, not seasonally adjusted, Base Period 1982-84 = 100" (Series ID CUUR0000SA0), as published by the U.S. Department of Labor, Bureau of Labor Statistics, or a successor agency.
- 1.13 **Contingency Plan** means the Contractor's plan for avoiding an interruption in the work it performs under this Agreement.
- 1.14 **Contractor** means Camo Farms, Inc.
- 1.15 **County** means, depending on the context, either (a) the unincorporated area contained within the boundaries of Martin County, Florida or (b) the government of Martin County, Florida, acting through the Board or its designees.
- 1.16 **County Indemnified Parties** means the County, including its officers, agents, volunteers, and employees while acting within the course and scope of their office or employment.
- 1.17 **Customer** means a Person that delivers Yard Trash to the Site.
- 1.18 **Director** means the Director of the County's Utilities & Solid Waste Department or the Director's designee(s). The Director is the County employee designated to serve as the County's representative in discussions with the Contractor regarding this Agreement.
- 1.19 **District Manager** means the senior employee that the Contractor has designated to serve as the Contractor's representative in discussions with the County regarding this Agreement.
- 1.20 **Effective Date** means the date when this Agreement is signed and duly executed by the Board's designee, which shall occur after the Agreement is signed and duly executed by the Contractor.
- 1.21 **First Operating Year** means the period of time from the Commencement Date through and including September 30, 2021, unless this Agreement is terminated earlier.
- 1.22 **Force Majeure** means the following events or circumstances, but only to the extent that they delay or preclude the County or Contractor from performing any of their obligations (other than payment obligations) under this Agreement: (a) a tornado, hurricane, flood, fire, or explosion (except those caused by the negligence of Contractor, its agents, and assigns), epidemic, or pandemic; (b) acts of a public enemy, acts of war, terrorism, riots, or civil disturbances; (c) suspension, termination, or interruption of utilities necessary for

the County's or the Contractor's operations or duties under this Agreement; (d) an injunction, or a legal or equitable proceeding brought against the County or Contractor, or a Change in Law; and (e) any act, event, or condition that is determined by mutual agreement of the County and the Contractor to be of the same general type as the events of Force Majeure identified in Sections 1.22 (a) through (d).

- 1.23 **Fugitive Emissions** means visible emissions (e.g., dust or particulate) that are caused by activities on the Site and have a density equal to or greater than twenty percent (20%) opacity.
- 1.24 **Garbage** means all kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.
- 1.25 **Hazardous Material** means Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. Hazardous Material includes any material or substance identified as a hazardous waste or hazardous substance in the Florida Administrative Code, Florida Statutes, U.S. Code, Code of Federal Regulations, or other Applicable Law.
- 1.26 **Holiday** means a day when the Contractor is not required to accept Yard Trash at the Site.
- 1.27 **Indemnified Loss** means all actual costs, losses, damages, expenses, and liabilities that a County Indemnified Party incurs or suffers pursuant to or in connection with, or are caused by or result from, directly or indirectly, **IN WHOLE OR IN PART**, any wrongful act, error or omission, or negligence by the Contractor or any of its agents, employees, or any tier of subcontractors of the Contractor, or subcontractor to a subcontractor of the Contractor, or anyone employed by any of those Persons for whose wrongful act, error or omission, or negligence any of them may be liable, except to the extent resulting solely from the negligent acts or omissions of the County Indemnified Party, in the execution or performance of the Contractor's obligations under or incidental to this Agreement. Such costs include attorneys' fees, court costs, and expert witness fees in all trial, appellate, mediation, and bankruptcy proceedings. An Indemnified Loss includes (a) any bodily injury, property damage, sickness, disease, or death; (b) any claim arising under or from any actual or alleged violation of any Applicable Law (including workers' compensation laws, environmental laws, and health and safety laws) or any common law duty; (c) any actual or alleged infringement of any intellectual rights or property of any Person; (d) any actual or alleged pollution of or damage or destruction to property, natural resources, or the environment; (e) any lawsuit resulting from or related to the designation by the Contractor of any document or material as exempt from public disclosure or public records laws; (f) any lawsuit resulting from or related to the County's decision to award this Agreement to the Contractor; and (h) defending, settling, prosecuting, investigating, or participating in (as a witness or otherwise) any proceeding

that arises out of or pertains to any of the foregoing; in each case, to the extent permitted by law or not otherwise prohibited, without regard to or limitation by the amount or type of benefits, damages, or compensation payable by or for the Contractor, any subcontractor of the Contractor, or any subcontractor to a subcontractor of the Contractor under any insurance policy or any Applicable Law (including employee benefits, disability benefits, and workers' compensation laws).

- 1.28 **Load** means the cargo in a vehicle delivering Yard Trash to the Site or removing Yard Trash or other materials from the Site.
- 1.29 **Reserved.**
- 1.30 **Mechanical Container** means a dumpster, roll-off container, compactor, or other large container that is (a) equal to or greater than one cubic yard in size, (b) placed on and removed from the Site with mechanical equipment, and (c) used for the collection of Solid Waste or Recyclable Materials.
- 1.31 **Objectionable Odor** means any odor present in the outdoor atmosphere which, by itself or in combination with other odors, is or may be harmful or injurious to human health or welfare, which unreasonably interferes with the comfortable use and enjoyment of life or property, or which creates a nuisance.
- 1.32 **Operating Day** means a calendar day, except Sundays and Holidays, from the Commencement Date until this Agreement expires or terminates.
- 1.33 **Operating Month** means each calendar month from the Commencement Date until this Agreement expires or terminates. However, the first Operating Month shall begin on the Commencement Date and the last Operating Month shall end on the day when this Agreement expires or terminates.
- 1.34 **Operating Year** means a period of twelve (12) consecutive Operating Months, beginning on October 1 and ending on September 30 of the following year. Notwithstanding the foregoing, the First Operating Year shall begin on the Commencement Date and end on September 30, 2021, and the last Operating Year shall end on the day when this Agreement expires or terminates.
- 1.35 **Operations Plan** means the Contractor's written plan for conducting its work in compliance with this Agreement.
- 1.36 **Ordinances** mean the County's Code of Ordinances and any amendments thereto.
- 1.37 **OSHA** means the Occupational Safety and Health Administration.
- 1.38 **Party** means, depending on the context, either the County or the Contractor.
- 1.39 **Parties** mean the County and the Contractor.
- 1.38 **Performance Bond** means the financial security furnished by the Contractor as a guarantee that the Contractor will perform its work and pay all lawful claims in

accordance with the terms of this Agreement.

- 1.39 **Permits** means any local, state or federal permit, license, franchise, registration, certification, authorization or other approval required for the performance of the Contractor's obligations under this Agreement.
- 1.40 **Person** means any and all persons, natural or artificial, including any individual, firm, partnership, joint venture, or other association, however organized; any municipal or private corporation organized or existing under the laws of the State of Florida or any other state; any county or municipality; and any governmental agency of any state or the federal government.
- 1.41 **Processing** means any technique designed to change the physical, chemical, or biological character or composition of any Solid Waste so as to render it: safe for transport; amenable to recovery, storage, or Recycling; safe for disposal; or reduced in volume or concentration.
- 1.42 **Rate** means the fees and charges approved herein for the Contractor's services, as set forth in Exhibit E.
- 1.43 **Recovered Screened Material** means the fines fraction, consisting of soil and other small materials, derived from the processing or recycling of Construction and Demolition Waste, which passes through a final screen size no greater than 3/4 of an inch.
- 1.44 **Recyclable Materials** mean those materials that are capable of being recycled and would otherwise be processed or disposed of as Solid Waste. More specifically, for the purposes of this Agreement, Recyclable Materials means materials that are removed from Yard Trash at the Site and then used in a beneficial manner, including wood, metal, plastic, glass, and Clean Debris. However, Recyclable Materials does not include Recovered Screened Material, even if the Recovered Screened Material is reused or recycled.
- 1.45 **Recycling** means any process by which materials that would otherwise have been Solid Waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.
- 1.46 **Site** shall mean the approximately 1.4 acre area that is depicted in Exhibit A, which is attached hereto. Exhibit B contains a legal description of the Site.
- 1.47 **Solid Waste** shall have the meaning provided in Section 403.703(36), Florida Statutes. Solid Waste includes Construction and Demolition Waste, Garbage, Hazardous Material, Trash, and Yard Trash.
- 1.48 **Tipping Area** means the area or areas on the Site where delivery vehicles unload Yard Trash.
- 1.49 **Transfer Station** means the facility where the County loads Solid Waste into trucks for transport to a disposal facility. The location of the Transfer Station is depicted in Exhibit A to this Agreement.

- 1.50 **Transition Period** means the period of time between the Effective Date and the Commencement Date.
- 1.51 **Transition Plan** means a written document describing in detail the activities that shall be undertaken and the schedule that shall be followed by the Contractor during the Transition Period to ensure the Contractor successfully provides the Contractor's services in compliance with this Agreement on and after the Commencement Date.
- 1.52 **Trash** means miscellaneous non-hazardous waste materials, including cardboard, paper, fiberglass, furniture, carpet, cloth, plastics, toys, styrofoam, tires, appliances, cabinets, bathtubs, rubbish, rags, sweepings, and packaging. However, Trash does not include Garbage, Hazardous Material, or other types of Unacceptable Waste.
- 1.53 **Unacceptable Waste** means any Solid Waste, liquid waste, or other material that cannot be accepted at the Site in compliance with the Permits and Applicable Law. Unacceptable Waste includes Garbage and Hazardous Material.
- 1.54 **Yard Trash** means vegetative matter resulting from landscaping maintenance and land clearing operations and includes associated rocks and soils.

SECTION 2: ADOPTION OF RECITALS

The Parties agree that the Recitals set forth in this Agreement are accurate, correct, and adopted herein by this reference.

SECTION 3: TERM OF THIS AGREEMENT

3.1 INITIAL TERM OF AGREEMENT

This Agreement shall take effect and be binding upon the Parties from the Effective Date until this Agreement is terminated or expires. The initial term of this Agreement shall begin on the Effective Date and shall expire on September 30, 2026, unless this Agreement is terminated earlier.

3.2 OPTION TO RENEW THE AGREEMENT

Each renewal term (if any) shall be two years in duration, unless the County and Contractor mutually agree to a longer term, but the cumulative duration of all renewal terms shall not be greater than four (4) years. During each renewal term the County and the Contractor shall be subject to the conditions and limitations contained herein, unless the County and the Contractor amend this Agreement to provide otherwise.

The Board shall have the right to renew and extend this Agreement, at the end of the initial term and at the end of each renewal term (if any), unless the Contractor gives timely written notice to the County pursuant to Section 59, below, that the Contractor is not willing to renew this Agreement. Such notice must be delivered to the County at least one year before the end of the then current term of the Agreement.

As a courtesy, the County shall endeavor to give notice to the Contractor at least one

hundred eighty (180) days before the expiration of the then current term if the County concludes that the County does not wish to renew this Agreement. However, the County's failure to provide such notice shall not constitute a breach of this Agreement, or delay the expiration of this Agreement, or otherwise adversely affect the County's rights hereunder.

SECTION 4: LEASE, LICENSE AND EASEMENTS FOR CONTRACTOR

The County owns the Site, the Transfer Station, and the other improvements and property located at 9101 S.W. Busch Street in Palm City, Florida. The Site and the Transfer Station are depicted in the aerial photographs that are attached hereto as Exhibit A. The legal description of the Site is contained in Exhibit B.

The County hereby leases to the Contractor, and the Contractor hereby leases from the County, the real property and other improvements located on the Site.

The County hereby grants the Contractor a license to access the areas adjacent to the Site, but such authorization is only for the purpose of conducting the activities expressly described in this Agreement. Among other things, this license authorizes the Contractor to transport Yard Trash and other materials from the Site to the Transfer Station and scale house on the County's property.

The County also hereby grants the Contractor all easements that the County may grant and are necessary to: (a) enable the Contractor to have ingress and egress between the Site and the dedicated right-of-way for S.W. Busch Street; and (b) provide for the drainage of stormwater from the Site. Upon request, the County will grant the Contractor other easements on or across the Site if such easements are reasonably needed for electrical transmission lines, water lines, or other utility services for the Contractor's work under this Agreement. The form, conditions, and locations of such easements shall be subject to the mutual consent of both Parties.

The lease, licenses, and easements granted to the Contractor pursuant to this Section 4 are subject to the conditions and limitations in this Agreement and they shall terminate when this Agreement expires or terminates.

Notwithstanding anything else contained herein, the County reserves its right of unrestricted ingress and egress to the areas on the Site.

SECTION 5: GENERAL SCOPE OF CONTRACTOR'S DUTIES

This Section 5 describes the general scope of the Contractor's duties under this Agreement. The general requirements in this Section 5 are supplemented by the specific requirements in the other sections of this Agreement. Subject to the conditions contained herein, the Contractor shall:

- (a) receive and accept all of the Yard Trash that is delivered to the Site;
- (b) transport all of the Yard Trash from the Site to a location where the Yard Trash will be chipped, ground, or otherwise processed and used for a beneficial purpose;

- (c) market and sell or give away all of the Yard Trash;
- (d) recycle, reuse, or dispose of any non-vegetative materials that are mixed in with or removed from the Yard Trash;
- (e) comply at all times with the requirements in this Agreement and Applicable Law;
- (f) provide all labor, services, supervision, materials, and equipment necessary to accomplish the Contractor's work in compliance with the requirements in this Agreement;
- (g) keep all revenues derived from the sale of the Yard Trash; and
- (h) perform all of its work and satisfy all of its obligations under this Agreement at Contractor's sole expense, in exchange only for the payments by the County that are expressly authorized herein and the revenues derived from the sale of Yard Trash.

SECTION 6: TRANSITION PLAN

The Contractor shall work closely with the Director during the Transition Period to ensure that the Contractor is able to commence operations on the Site as expeditiously as possible and with a minimum of disruption to the County's operations on its adjacent property. The Contractor shall meet with the Director within seven (7) days after the Effective Date to ensure that the Contractor's Transition Plan and Operations Plan are prepared expeditiously and in compliance with the requirements herein. The Transition Plan shall be submitted to the Director for the County's review within fourteen (14) days after the Effective Date. The County shall not have the authority to approve or revise the Transition Plan, but may offer comments concerning potential deficiencies in the plan. The Contractor shall promptly revise any provisions in the Transition Plan that fail to comply with the requirements in this Agreement. Under the Transition Plan, the Commencement Date shall be no later than ten (10) days after the County allows the Contractor to take possession of the Site.

Pursuant to Section 1.51, above, the Transition Plan shall describe in detail the activities that shall be undertaken and the schedule that shall be followed by the Contractor during the Transition Period to ensure the Contractor successfully provides the Contractor's services in compliance with this Agreement on and after the Commencement Date. If the Contractor wishes to start its operations on a limited basis initially and then ramp up to full operations, the Transition Plan shall describe how and when the Contractor shall receive and process select Loads of Yard Trash during the Transition Period, but the Commencement Date shall be no later than ten (10) days after the County allows the Contractor to take possession of the Site. The delivery of any select Load shall be subject to the approval of the Director and the acceptance of any select Load shall be subject to the approval of the Contractor. The Contractor shall bill and the County shall pay for Processing select Loads by following the same procedures that are set forth herein for Loads received after the Commencement Date.

SECTION 7: NOTICE TO PROCEED

The County shall issue a notice to proceed to the Contractor at least seven (7) days before the Contractor may take possession of the Site. At least two (2) days prior to the date designated in the notice to proceed, representatives of the Contractor and the County shall meet at the Site so that they can introduce their key personnel, discuss the Contractor's plans for beginning work under this Agreement, and identify steps that should be taken to ensure the successful implementation of the Transition Plan and the Operations Plan.

SECTION 8: OPERATIONS PLAN

The Contractor shall prepare and implement a detailed Operations Plan that describes how the Contractor will comply with the requirements in this Agreement. At a minimum, the Contractor's Operations Plan shall contain the following:

- (a) a description of the operating procedures and equipment that the Contractor shall use when performing the work required herein;
- (b) a diagram depicting the location of the equipment, Tipping Areas, and storage areas the Contractor shall use on the Site;
- (c) a process flow diagram depicting the movement of Yard Trash from the time it arrives on the Site until it is removed from the Site;
- (d) a description of the procedures and equipment that shall be used on the Site to receive, manage, process (if applicable), contain, temporarily store, and transport Yard Trash, Unacceptable Waste, and other materials;
- (e) the names and locations of the facilities (if any) that will be used by the Contractor for the off-Site processing of the Yard Trash;
- (f) the names and locations of the facilities that will be used by the Contractor for the disposal of non-vegetative material, including Hazardous Material and other Unacceptable Waste;
- (g) a staffing plan, which shall identify the numbers and types of employees needed to implement the Operations Plan, including the professional qualifications and experience required for each position identified in the staffing plan;
- (h) an organizational chart that identifies the Contractor's District Manager, operators, supervisors, spotters, and other employees identified in the staffing plan; and
- (i) the Contractor's strategy for marketing, selling, and beneficially using Yard Trash.

The Contractor's Operations Plan shall describe how the Site will be operated during normal conditions to ensure that: delivery vehicles will enter the Site, unload, and leave in a timely

manner; the Yard Trash will be inspected; and Unacceptable Waste will be segregated from other materials and then removed from the Site.

The Operations Plan shall include the Contractor's procedures and protocols for ensuring that the Contractor's work under this Agreement will be performed in a safe and responsible manner. The Contractor shall describe the safety and loss control training that will be provided to the employees providing services under this Agreement. The Operations Plan shall contain the safety rules that will be applicable to visitors, including the County's representatives, when they are on the Site.

The Operations Plan shall include the Contingency Plan described in Section 19, below.

The Contractor's Operations Plan shall be submitted to the Director at least ten (10) calendar days before the Commencement Date. The Operations Plan shall be revised and updated whenever the Contractor changes its operating procedures. The updated portions of the Operations Plan shall be submitted to the Director within five (5) Operating Days after the Operations Plan is updated.

The Operations Plan shall be provided to the Director for informational purposes only, except to the extent otherwise provided in Section 21, below. The Director shall have no right to approve, reject, or revise the Operations Plan. Nonetheless, the Operations Plan must satisfy the requirements contained herein and the Contractor shall revise the plan promptly if the Director identifies any instances where the plan fails to comply. The Contractor shall follow and comply with its Operations Plan at all times during the term of this Agreement.

SECTION 9: DELIVERY OF YARD TRASH

On the Commencement Date and each Operating Day thereafter throughout the term of this Agreement, when vehicles deliver Loads of Yard Trash to the scale house at the County's Center, the County shall weigh the vehicles at the County's scale house and then direct the vehicles to the Site. The County also will deliver Yard Trash to the Site if the Yard Trash is removed from Loads of material received at the Building or elsewhere at the Center. The Contractor shall allow the vehicles to unload at the Site in the same sequence in which the vehicles arrive. The Contractor shall not allow any vehicles to circumvent the queue at the Site and thereby cut in line in front of other vehicles. The Contractor shall coordinate with the County to ensure that the roads at the Center are maintained at all times by the County to allow safe and unimpeded access to and from the Site, without causing delays or damage to the delivery vehicles. If vehicles become stuck or otherwise unable to move on the Site, the Contractor shall promptly notify the County or provide assistance in moving the vehicle.

The County shall have no obligation to deliver (or cause the delivery of) Yard Trash to the Site until the Contractor takes possession of the Site and gives notice to the County that the Contractor is prepared to begin operations. The Contractor's notice to the County shall identify the date when the Contractor wishes to begin receiving Loads of Yard Trash and the approximate quantities of Yard Trash that the Contractor wishes to receive. The Contractor shall coordinate with the County to try to ensure that the Contractor's needs for Yard Trash are satisfied before the Commencement Date, but the County's sole obligation will be to direct Loads of Yard Trash to the Site after they arrive at the scale house.

SECTION 10: TIPPING AREAS

The Contractor shall provide and maintain at least one and preferably two (2) separate, dedicated Tipping Areas on the Site for unloading vehicles that are delivering Yard Trash. If two areas are provided:

- (a) One area shall be used solely for unloading small vehicles (i.e., automobiles and light trucks that are less than 10,000 pounds (gross vehicle weight)) containing Loads classified by the County as Yard Trash.
- (b) One area shall be dedicated solely to large vehicles (i.e., medium and heavy trucks in excess of 10,000 pounds (gross vehicle weight)) containing Loads classified by the County as Yard Trash.

The Contractor shall use its best efforts to ensure that vehicles delivering Yard Trash are able to enter the Tipping Area, unload, and leave the Site as expeditiously as possible.

SECTION 11: DUTY TO ACCEPT AND PROCESS YARD TRASH

On the Commencement Date and each Operating Day thereafter throughout the term of this Agreement, the Contractor shall accept and process all of the Yard Trash that is delivered to the Site. The Contractor shall not divert or move any portion of the Yard Trash from the Site to any other Solid Waste management facility for Processing, Recycling, disposal, or other purposes, except as otherwise provided herein or approved in advance in writing by the Director.

SECTION 12: INSPECTION, ACCEPTANCE AND REJECTION OF SOLID WASTE

The County shall not knowingly deliver and the Contractor shall not knowingly accept or Process any Unacceptable Waste at the Site. When vehicles arrive at the Center, the County shall make a preliminary determination as to whether the Load contains Yard Trash and should be delivered to the Site. At its option, the County also may provide a spotter at the Tipping Area to identify Unacceptable Waste. However, the Contractor shall be solely responsible for making the final determination as to whether any single item or any Load of material delivered to the Site is Unacceptable Waste.

The Contractor shall have at least one trained spotter or operator on duty at all times when Yard Trash is delivered to the Site. A spotter or operator shall be on duty at a Tipping Area at all times when Yard Trash is being unloaded at that Tipping Area. The Contractor's spotter(s) or operator(s) shall inspect each Load of Yard Trash when it is unloaded and shall determine whether such Load is acceptable or not. The Contractor may refuse to accept part or all of a Load of Yard Trash if the Contractor reasonably believes the rejected material consists of Hazardous Material or other Unacceptable Waste. If part of a Load contains or consists of Unacceptable Waste (e.g., a plastic bag full of Garbage or Trash; a waste tire) that can be readily removed from the Yard Trash, the Contractor shall remove the Unacceptable Waste from the Load and then accept the portion of the Load that consists of Yard Trash.

If the Contractor reasonably believes that a vehicle is about to unload Unacceptable Waste at the Site, the Contractor shall immediately notify the driver of such vehicle that he or she cannot unload the Unacceptable Waste. If a vehicle already has unloaded Unacceptable Waste at the Site, the Contractor shall immediately notify the driver, before the driver leaves the Site, that the Unacceptable Waste has been rejected by the Contractor. After notifying the driver, the Contractor shall place the Unacceptable Waste back into the driver's vehicle, or place the Unacceptable Waste in a Mechanical Container, or segregate the Unacceptable Waste from the active Tipping Areas, and otherwise manage the Unacceptable Waste in compliance with Applicable Law. In all cases, the Contractor shall be deemed to have accepted the Solid Waste when the Solid Waste is unloaded at the Site, unless the Contractor informs the driver of the vehicle before the vehicle leaves the Site that that waste is being rejected as Unacceptable Waste and then takes the steps identified in the preceeding sentence.

The procedures in this Section 12 must be followed if the Contractor wishes to reject any Solid Waste that is unloaded at the Site, including waste tires. If the Contractor fails to comply with these procedures, the Contractor shall be deemed to have accepted the Solid Waste.

Title, responsibility, and liability for all of the Solid Waste delivered to the Site shall pass to the Contractor when such Solid Waste is accepted at the Site. The Contractor shall arrange and pay for the disposal of all Solid Waste, including Unacceptable Waste, that is accepted at the Site.

SECTION 13: PROCESSING AND MANAGEMENT OF YARD TRASH

All of the Yard Trash accepted by the Contractor shall be processed, as needed, to provide for the beneficial use of the Yard Trash. The Yard Trash may be processed at any off-Site location that is properly licensed and permitted for such activities. Yard Trash shall not be chipped or ground on the Site, unless the Contractor receives the Director's prior written approval expressly authorizing such activities.

The Contractor shall beneficially reuse one hundred percent (100%) of the Yard Trash that it receives at the Site, unless the Contractor receives the Director's written approval to deviate from this standard temporarily due to a Force Majeure Event. At all times the Contractor shall use its best efforts to beneficially reuse all of the Yard Trash it receives at the Site.

The Contractor is solely responsible for removing materials from the Yard Trash that may damage the Contractor's Processing equipment or operations, including rocks, concrete, and metal. Any grinding or chipping of Yard Trash on the Site shall be conducted in compliance with all Applicable Laws, including the requirements in Exhibit G (FDEP Settlement Agreement).

All of the Yard Trash and other material received on the Site shall be handled on a "first in, first out" basis. Upon the County's request, the Contractor shall provide the Director with dated photographs demonstrating that the Contractor has systematically processed and removed all of the materials in its stockpiles on a "first in, first out" basis.

If the Yard Trash accepted by the Contractor contains non-vegetative Solid Waste (e.g., Garbage or Trash) that is not a Hazardous Material, the Contractor may remove such waste from the Yard

Trash and then place the waste in a Mechanical Container on the Site. In the alternative, the Contractor may place the waste at a location in or near the Transfer Station, subject to the prior approval of the Director. All such waste shall be removed from the Site in compliance with the deadlines in Section 14, below. The Contractor shall pay the County for the disposal of all such waste pursuant to Section 28.6, below.

If the Contractor receives or generates Clean Debris (e.g., soil; concrete), the Clean Debris may be disposed of on the County's adjacent property at no charge to the Contractor, subject to the conditions herein. In such cases, the Clean Debris shall be transported by the Contractor to the County's scale house, where the Clean Debris will be weighed by the County, and then the Contractor shall deliver the Clean Debris to a location on the County's property that has been designated by the Director. The County will use the Clean Debris as fill material or for other lawful purposes. Among other things, the County may use the Clean Debris to fill a retention area located on the County's property.

If the Contractor receives concrete that it wishes to give to the County, the Contractor shall cut or otherwise remove any exposed rebar that extends out of the concrete. The concrete shall not constitute Clean Debris and shall not be accepted by the County as Clean Debris, if rebar extends outside of the concrete.

SECTION 14: TEMPORARY ON-SITE STORAGE

All of the Yard Trash in a Load shall be removed from the Site by the Contractor within five (5) Operating Days after that Load is accepted by the Contractor at the Site. No processed or unprocessed Yard Trash may be stored or stockpiled on the Site for more than five (5) Operating Days.

If non-vegetative materials are removed from the Yard Trash and placed in a Mechanical Container or a segregated area on the Site, all such material must be removed from the Site within ten (10) calendar days after being placed in the Mechanical Container or segregated area. The Mechanical Container must be emptied, and the segregated area must be cleared, at least once every ten (10) calendar days.

Notwithstanding anything else contained herein, Yard Trash and other materials shall be removed from the Site in compliance with the deadlines established in the Permits and Applicable Laws if those deadlines are shorter than the deadlines provided herein.

All processed and unprocessed materials shall be stored in Mechanical Containers or in neat, compact areas on the Site that have been designated in the Operations Plan. Bollards or other containment methods shall be used to confine and manage any material that is not placed in a Mechanical Container.

Notwithstanding anything else contained herein, the Contractor shall not store, stockpile, or otherwise have more than a total of 1,500 tons of processed and unprocessed materials on the Site at any time. If more than 1,500 tons of processed and unprocessed materials are on the Site at any time, as estimated by the County based on scale house records or visual inspections, the County may reduce the County's payments to the Contractor, as described in Section 28.3, below. In the alternative, the County may arrange for a third party to remove the excess

materials from the Site and then deduct the cost of the third party's services from the compensation paid to the Contractor, as described in Section 28.2, below.

The Contractor may petition the County to increase the amount of on-Site storage when needed to address conditions resulting from a Force Majeure event. If the County grants the Contractor's petition, the Contractor shall promptly prepare and provide the County with an updated Operations Plan, which must demonstrate that the Contractor will be able to provide neat, orderly, and workmanlike operations on the Site after the on-site storage is increased.

SECTION 15: SITE MAINTENANCE

The Contractor shall maintain the Site in a clean, orderly, and workmanlike manner at all times. All paper, plastic, and other litter on the Site must be picked up, placed in an appropriate waste receptacle, or otherwise removed from the Site each Operating Day.

Fugitive Emissions, Objectionable Odors, and nuisance conditions on the Site are prohibited. At a minimum, the Contractor shall water the on-Site roadways to prevent Fugitive Emissions from truck traffic. The Contractor also shall use water, misting systems or other appropriate measures to minimize the dust emitted from the operations in the Tipping Areas, the Processing areas (if any), the storage areas, and other areas on the Site. The Contractor shall monitor and measure the wind speed and direction throughout each Operating Day. The Contractor shall suspend part or all of its operations, as necessary, whenever the wind speed exceeds fifteen (15) miles per hour or the wind direction indicates Fugitive Emissions are likely to occur.

SECTION 16: CONTRACTOR'S PERSONNEL AND EQUIPMENT

16.1 GENERAL REQUIREMENTS

The Contractor shall provide all equipment and personnel necessary to perform Contractor's duties under this Agreement in a safe, timely and efficient manner. All of the equipment used by the Contractor shall be designed for its proposed use. Such equipment shall be maintained and operated in accordance with the manufacturer's recommendations. The Contractor shall use its best efforts to keep its equipment in operating condition at all times. The Contractor shall make arrangements for or have access to additional equipment and workers, as necessary, to ensure that the Contractor's operations on the Site are not interrupted or halted. The Contractor shall have equipment and personnel available to properly inspect and receive the first Load and the last Load of Yard Trash received each Operating Day at the Site.

16.2 MINIMUM QUALIFICATIONS

All of the Contractor's employees shall be competent and appropriately trained for the tasks assigned to them. All employees shall receive appropriate training before they commence work under this Agreement. The Contractor shall provide refresher courses and additional training to its employees, as needed, to ensure compliance with the requirements of this Agreement and all Applicable Laws.

The Contractor must have successfully operated a Yard Trash Processing facility for at least two consecutive years before commencing work at the Site. Each of the Contractor's operators and supervisors shall have a minimum of two years of prior experience operating facilities where Yard Trash is processed. The Contractor, and the Contractor's operators and supervisors, shall comply with the applicable requirements in FDEP Rule 62-701.320(15), Florida Administrative Code.

16.3 EMPLOYEE CONDUCT

The Contractor's personnel shall maintain a courteous and respectful attitude toward the public at all times. The Contractor shall instruct its employees to avoid loud or profane language during the performance of their duties under this Agreement. The Contractor's employees shall not cause any disturbance, interference, or delay to any work or service rendered to the County or by the County. The Contractor's employees shall not conduct themselves in a negligent, disorderly or dishonest manner.

16.4 EMPLOYEE IDENTIFICATION

The Contractor shall furnish each employee with an appropriate means of identifying him or her as an employee of the Contractor (e.g., a uniform with a name tag and company logo). The Contractor's employees shall wear the identification at all times while on the Site or Center. The Director has the right to approve the identifiers or identification furnished by the Contractor.

16.5 ATTIRE FOR EMPLOYEES

The Contractor's employees shall wear proper attire at all times when working at the Site under this Agreement. Proper attire shall consist of appropriate pants or shorts, a shirt with the Contractor's name or logo, and boots or similar footwear. Personal protective equipment (e.g., goggles; reflective vests) shall be worn, as necessary

16.6 THE CONTRACTOR'S COMPLIANCE WITH LABOR LAWS

The Contractor shall comply with all Applicable Laws concerning the protection and rights of employees, including but not limited to equal employment opportunity laws, minimum wage laws, immigration laws, the Americans with Disabilities Act, and the Fair Labor Standards Act.

The Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, 8 U.S.C. 1324, et. seq., and the regulations relating thereto, as either may be amended from time to time. Failure to comply with the provisions of these Applicable Laws shall be considered a material breach and shall be grounds for termination of this Agreement.

The County requires the Contractor and its subcontractors to register with the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of their newly hired employees. Within five (5) Operating Days after receiving a written request from the

Administrator, the Contractor shall provide proof of registration with the E-Verify System and an affidavit stating that each subcontractor it hires does not employ, contract with, or subcontract with an unauthorized alien.

SECTION 17: HOURS AND DAYS OF OPERATIONS

The County's normal hours and days of operation at the Center are Monday through Friday, from 7:30 a.m. to 5:00 p.m., and Saturday from 7:30 a.m. to 12:00 p.m. The County may change (increase or decrease) the days and hours of operation at the Center when needed to respond to a hurricane or other Force Majeure event. The Director shall provide reasonable notice to Contractor concerning any such change.

The Contractor shall receive Yard Trash at the Site during the same hours and days that the County's Center is open to receive Solid Waste from the public. However, the Contractor may deviate from this schedule if the Contractor receives the Director's prior written approval for the deviation. The Contractor may enter the Site at 6:30 a.m. on Operating Days, subject to any security and safety requirements established by the Director.

The County's Center is closed on the following Holidays: Memorial Day; Labor Day; Fourth of July; Thanksgiving Day; Christmas Day; and New Year's Day. The Director may designate additional days as Holidays, as the County deems appropriate. The Director shall provide notice to the Contractor before designating additional Holidays.

SECTION 18: SPILLS AND ENVIRONMENTAL REMEDIATION

The Contractor shall immediately clean up any spills of oil, hydraulic fluid, or liquid waste at the Site, regardless of whether the spill occurs due to the activities of the Contractor or its Customers. The Contractor shall use its best efforts to contain and control any spill. The Contractor shall keep spill kits and absorbent material available on the Site at all times in sufficient quantities to respond to any spill up to fifty (50) gallons. All of the Contractor's spotters and operators shall be trained concerning the proper response to spills, including spills involving Hazardous Materials.

The Contractor shall use best management practices to prevent spills from occurring. The Contractor's equipment shall be maintained and its supplies shall be stored in a manner that minimizes the risk of contamination to the Site. The Contractor shall be responsible for all costs of responding to and remediating the damages of any spill, including impacts to surface water or groundwater resulting from the Contractor's operations.

The Contractor shall immediately notify the County of any spill or leak that is estimated to be greater than five (5) gallons. A written report shall be sent to the County within twenty-four (24) hours of any such incident. Photographs of the spill or leak, and a description of the Contractor's response, shall be included in the report.

SECTION 19: CONTINGENCY PLAN

The Contractor must prepare a Contingency Plan for its operations at the Site. The Contingency Plan must describe the procedures that will be followed whenever there is an unexpected accident or problem at the Site, including but not limited to hurricanes, accidents involving employees or Customers, the receipt or spill of Hazardous Materials, and similar events. The Contingency Plan shall identify the name and telephone number of each local, state, and federal agency that needs to be contacted in the event of a spill or emergency. The Contingency Plan also shall identify the individuals working for the Contractor, and the individuals working for the County, that must be notified concerning such events. The Contingency Plan shall include the telephone numbers and e-mail addresses for all such Persons.

The Contractor's Contingency Plan shall identify the steps that the Contractor shall take to repair or replace its equipment in a timely manner following a malfunction or other problem. The Contingency Plan shall contain the name and contact information for the companies that will provide spare parts, replacement equipment, and rental equipment in the event of a malfunction.

The Contingency Plan shall identify the steps that the Contractor will take to ensure uninterrupted operations at the Site if one or more of its employees are sick due to COVID-19 or other causes.

The Contingency Plan shall be updated each Operating Year in October or when otherwise necessary. The Contingency Plan shall be resubmitted to the Director within five (5) Operating Days after the plan is updated.

SECTION 20: COUNTY RESPONSIBILITIES REGARDING YARD TRASH

Whenever a Customer delivers a Load of Yard Trash to the County's Center on or after the Commencement Date, the County shall direct the Customer to the Site. The County shall operate certified scales at the Center, which the County shall use to measure and record the weight of each Load delivered to and removed from the Site. If the scales are temporarily inoperable, the County shall use tare weights, volumes, or other methods to estimate the weight of each Load delivered to or removed from the Site. The County shall provide daily, weekly, and/or monthly material tonnage reports to the Contractor, as needed. The County's scale house records will be available for inspection by the Contractor, upon request, following reasonable advance notice.

The County shall establish and maintain simple and clear classification codes to correspond with the various types of material delivered to and removed from the Site. The County staff shall communicate directly with the Contractor to ensure Customers are charged by the County for the appropriate type of material. The County shall determine the appropriate classification for each Load of Yard Trash or Solid Waste delivered to or transported from the Site.

The County will provide well water for use on the Site, including dust suppression. The County also has a water truck at the Center that the County will use, upon request, to assist with dust control for the on-Site roads. In the event a public water supply system is available in the future,

the County shall, upon request, evaluate the cost and feasibility of connecting the public supply to the existing water lines on the Site. If the County and Contractor agree concerning the installation of a water line to the Site, the connection will be metered and the monthly water bills will be paid by the Contractor.

The County shall provide directional traffic signs within the Site, consistent with the overall signage plan for the Center. The County also will provide signs concerning the types of material that will be accepted at the Site.

Notwithstanding anything else contained herein, the County does not guarantee and affirmatively disclaims any representation or warranty concerning the quantity, quality, composition, or physical or chemical characteristics of the Yard Trash and other material that will be delivered to the Contractor. The County does not provide any express or implied warranty concerning such material.

SECTION 21: USE OF THE SITE AND CENTER

The Contractor may occupy and use the Site, subject to the conditions herein. The Contractor acknowledges and agrees that the County provides no warranties or guarantees of any kind concerning the condition or capability of the Site, which the Contractor accepts “as is” and “where is.” The Contractor may install fixtures and equipment on the Site, and may make other improvements to the Site, after receiving the Director’s written approval, which shall not be unreasonably withheld or delayed.

The Contractor shall use care in the performance of its services under this Agreement. The Contractor shall pay for and promptly repair all damages to the Site and the Center that occur as a result of the Contractor’s activities. Upon the expiration or termination of this Agreement, the Contractor shall deliver possession of the Site to the County in the same condition the Site was in on the date when the Contractor took possession of it, except for ordinary wear and tear.

The Contractor and its employees may use the Site for the activities expressly authorized in this Agreement, subject to the requirements herein. The Contractor also may provide portable toilets on the Site for its employees’ use. In addition, if the Contractor requests and receives the Director’s prior written approval, the Contractor may: (a) store equipment, tools, supplies, and similar materials on the Site; (b) perform routine maintenance work on vehicles and heavy equipment on the Site; (c) store fuel, oil, solvents and similar materials on the Site, as needed to service the Contractor’s vehicles and heavy equipment; and (d) refuel the Contractor’s vehicles and heavy equipment on the Site. Before the Contractor undertakes any of these activities on the Site, the Contractor shall amend its Operations Plan to include a detailed written description of the measures the Contractor will take to ensure that these activities are performed in compliance with Applicable Law and this Agreement. Notwithstanding anything to the contrary herein (e.g., Section 8), these components of the Contractor’s Operations Plan are subject to the Director’s review and approval, which shall not be unreasonably withheld. The Contractor shall not store any materials or vehicles on the Site or the Center, and the Contractor shall not conduct any activities on the Site or the Center, unless expressly authorized herein or approved in advance in writing by the Director.

The Contractor and its employees shall be given access to and from the Site, following established lanes of traffic through the Center, for routine daily transits during the days and hours when the Center is open to the public. The Contractor and Director shall work together to develop mutually acceptable procedures for providing access to the Site during emergencies or other unusual circumstances.

Scavenging is not permitted anywhere on the Center or the Site. The Contractor and its employees are not allowed to disturb, take, borrow, move, remove or use any items, supplies or equipment, including materials that have been set aside for Recycling or disposal, that belong to the County or any other Person, except with the prior written permission of the Director. Any such activity occurring without prior written permission shall be treated as theft and reported to law enforcement agencies.

The Contractor and its employees shall not trespass on or enter into any facility, building, or area of the Center, except with the prior written permission of the Director.

The Contractor shall pay any and all utility bills for the Contractor's activities on the Site, including electricity, water, and telephone service.

SECTION 22: NO LIENS ON SITE

The Contractor covenants and agrees that: (a) the Contractor and its subcontractors (if any) shall have no power or authority to incur any indebtedness giving a right to a lien or encumbrance of any kind or character upon the right, title, and interest of the County in and to the Site or the Center; and (b) under this Agreement, no third person shall ever be entitled to any mortgage, encumbrance, or lien of any kind on the Site or the Center. All persons contracting with the Contractor, or furnishing materials or labor to the Contractor or to the Contractor's agents or servants, and all other Persons shall be bound by the provisions of this Agreement, which bars any lien on the real property that comprises the Site or the Center.

SECTION 23: NOTICE REGARDING LIENS

NOTICE IS HEREBY GIVEN THAT THE COUNTY SHALL NOT BE LIABLE FOR ANY LABOR OR MATERIALS FURNISHED OR TO BE FURNISHED TO CONTRACTOR OR ANY OTHER PARTY CLAIMING UNDER THE CONTRACTOR UPON CREDIT, AND THAT NO CONSTRUCTION OR OTHER LIEN FOR ANY SUCH LABOR OR MATERIALS SHALL ATTACH TO OR AFFECT THE FEE ESTATE HELD BY THE COUNTY. NOTHING IN THIS CONTRACT, INCLUDING WITHOUT LIMITATION JOINDER BY THE COUNTY IN ANY APPLICATION OR APPROVAL, SHALL BE DEEMED OR CONSTRUED IN ANY WAY TO CONSTITUTE COUNTY'S CONSENT OR REQUEST, EXPRESS OR IMPLIED, BY INFERENCE OR OTHERWISE, TO ANY CONTRACTOR, SUBCONTRACTOR, LABORER, OR EQUIPMENT OR MATERIAL SUPPLIER FOR THE PERFORMANCE OF ANY LABOR OR THE FURNISHING OF ANY MATERIALS OR EQUIPMENT FOR ANY CONSTRUCTION, NOR AS GIVING THE CONTRACTOR OR ANY OTHER PERSON CLAIMING UNDER THE CONTRACTOR ANY RIGHT, POWER OR AUTHORITY TO CONTRACT FOR, OR PERMIT THE RENDERING OF, ANY SERVICES, OR THE FURNISHING OF ANY MATERIALS THAT WOULD GIVE RISE TO

THE FILING OF ANY LIENS AGAINST THE FEE ESTATE. THE CONTRACTOR SHALL INDEMNIFY THE COUNTY AGAINST ANY CONSTRUCTION UNDERTAKEN BY THE CONTRACTOR OR ANYONE CLAIMING THROUGH THE CONTRACTOR, AND AGAINST ALL PROHIBITED LIENS.

SECTION 24: MEMORANDUM OF LEASE FOR PUBLIC RECORDS

Pursuant to Section 713.10(2)(b), Florida Statutes, the County and the Contractor agree to execute a short form Memorandum of Lease, in the form shown in Exhibit I, for the purpose of recording such form in the public records of Martin County, Florida.

SECTION 25: SUBLEASES, SUBCONTRACTS, AND ASSIGNMENT OF LEASE

The Contractor shall not sublease all or any portion of the Site. The Contractor shall not assign this lease or transfer controlling interest in the Contractor, except as provided in Section 54, below. The transfer or assignment of this Agreement shall require the prior written consent of the County. Any single transaction or combination of transactions that results in a controlling or majority interest in the Contractor, or substantially all of the Contractor's assets, being purchased by or merged with any other Person shall constitute a transfer of this Agreement. The Contractor shall not subcontract its duties or obligations under this Agreement without the prior written consent of the County. Before any subcontractor will be allowed to enter the Site, the Contractor must provide the Director with written notice that identifies the name of the subcontractor and a description of the work to be performed by the subcontractor. No subcontract shall relieve the Contractor of any of its duties or obligations to the County under this Agreement.

SECTION 26: CONTRACTOR'S CLOSURE OF SITE

When this Agreement expires or terminates, the Contractor shall complete its operations on the Site and close the Site in compliance with Applicable Law, including Chapter 62-701, F.A.C. Among other things, the Contractor shall remove all of the Yard Trash, other Solid Waste, and Recyclable Materials from the Site. The Contractor also shall remove all of its equipment, tools, supplies, and personal property from the Site and the Center, unless the Parties agree otherwise in writing. However, the Contractor shall have no obligation to remove any structure, fixture, or accessory that was present on the Site when the Contractor took possession of the Site.

SECTION 27: COUNTY'S REPOSSESSION OF SITE

Upon the expiration or termination of this Agreement, the County is authorized to repossess the Site, including all improvements, fixtures, and personal property on the Site, either with or without legal process. With regard to such circumstances, the Contractor hereby waives any demand for possession of the property, and agrees to surrender and deliver the Site and property peacefully to the County. In the event of any forfeiture, the Contractor shall have no claim against the County for any improvements made on the Site or for any other cause whatsoever. The provisions of this Section 27 shall not be construed to divest the County of any legal right or remedy that it may have by statutory or common law, enforceable at law or in equity. This Section 27 affords the County a cumulative remedy, in addition to all other remedies available to

it.

The Site and the Center are and at all times shall remain the property of the County. All structures, fixtures, equipment, supplies, and personal property of every kind hereafter erected, installed, or placed on the Site or the Center by the Contractor shall become the property of the County unless removed within thirty (30) days after the expiration or termination of this Agreement. At the end of such 30-day period, the Contractor shall forfeit all of its right, title, and interest in any such structure, fixture, equipment or property to the County, without any further action being required of the Parties. Upon the expiration or termination of this Agreement, the Contractor shall deliver possession of the Site, including all improvements, to the County, free and clear of all liens, encumbrances, and sub-leases. The Parties shall cooperate reasonably to achieve an orderly and expeditious transition of operations from the Contractor to the County.

SECTION 28: COMPENSATION FOR CONTRACTOR

28.1 INVOICES

The Contractor shall prepare and submit invoices to the County on a monthly basis for the services provided under this Agreement during the prior Operating Month. The Contractor's invoices shall be prepared in compliance with the format shown in Exhibit D. Each invoice shall be submitted with the monthly activity report that is required pursuant to Section 33, below. The weight (tonnage) of materials identified in the Contractor's invoice and monthly activity report shall be based on and consistent with the weight (tonnage) recorded by the County in its official records for the scale house.

The County's payments to the Contractor shall be calculated by (a) multiplying the Rate times the weight of the Yard Trash transported from the Site during the relevant Operating Month and (b) then subtracting the cost of transporting and disposing of all Solid Waste and other non-vegetative materials that the Contractor delivered to the County during the relevant Operating Month. For example, in a hypothetical Operating Month in which the Contractor transports 100 tons of Yard Trash from the Site, the County's payments for that month shall be equal to the Rate multiplied by 100, minus the cost of transporting and disposing of materials (e.g., Trash) that were sent to a disposal facility.

The Contractor shall receive no payment from the County for any shipments of Clean Debris or Recovered Screened Material.

The County shall pay all invoices in accordance with the Florida Prompt Payment Act, Section 218, Florida Statutes. The County may contest any charge shown in the Contractor's invoices, but the County shall promptly pay all uncontested amounts.

28.2 ADJUSTMENTS TO PAYMENTS

The County's payments to the Contractor shall be reduced: (a) pursuant to Section 28.3, below if the Contractor stores excessive amounts of material on the Site; (b) if the County pays any fines or expenses as a result of any Citations received by the Contractor; (c) if the County pays any

expense because of the Contractor's failure to comply with the requirements herein; or (d) if the County imposes any administrative assessments pursuant to Section 39, below.

28.3 ADJUSTMENTS FOR EXCESS STORED MATERIAL

The County's payments to the Contractor shall be reduced when the County determines the Contractor has more material on Site than is allowed pursuant to Section 14, above. The Contractor's monthly activity report shall identify the "Net Balance On Site," pursuant to Section 33 herein and Exhibit C. If the Net Balance On Site calculation shows that the Contractor has more than 1,500 tons of material on the Site (including all processed and unprocessed material), the compensation paid to the Contractor shall be reduced by One Dollar (\$1.00) for each ton of excess material on the Site. For example, if the Contractor has a total of 2,000 tons of processed and unprocessed material on the Site during an Operating Month, the County shall reduce the County's payments to the Contractor for that month by Five Hundred Dollars (\$500). A separate calculation and payment (if applicable) shall be made each Operating Month.

28.4 RESERVED

28.5 SALE OF RECYCLABLE MATERIAL

The Contractor shall take title to all of the Yard Trash and other Solid Waste delivered to the Site when it is accepted by the Contractor. Accordingly, the Contractor is entitled to receive all of the proceeds derived from the sale of the Yard Trash and any other material that the Contractor removes from the Yard Trash. The Contractor also is responsible and shall pay for the disposal of all of the non-vegetative materials and Solid Waste that the Contractor accepts at the Site.

28.6 DISPOSAL COSTS

At the Contractor's request, the County will place a Mechanical Container (e.g., a 20 cubic yard roll-off container) on or close to the Site for the Contractor's use. More specifically, the Contractor may use the County's Mechanical Container for the disposal of Garbage, Trash, and other types of non-hazardous Solid Waste that the Contractor removes from the Yard Trash; however, the Contractor shall not place any Hazardous Material in the County's Mechanical Container. The County shall arrange for the Solid Waste in the Mechanical Container to be weighed at the County's scale house, loaded into trucks, and transported to a licensed landfill for disposal. The Contractor shall pay the County's then current tipping fee for Garbage to compensate the County for providing these services. The County's current tipping fee for trash is Forty Two Dollars (\$42.00) per ton. This tipping fee will be adjusted from time to time, as the County deems appropriate. The Contractor will be charged the prevailing "gate rate" (i.e., the tipping fee that is charged the public) when the County disposes of Solid Waste for the Contractor.

SECTION 29: CPI ADJUSTMENTS TO RATE

Subject to the conditions herein, on October 1, 2021 and each October 1 thereafter during the term of this Agreement, the Rate in Exhibit E shall be adjusted upward or downward by the Director in an amount that is equal to the percentage change in the Consumer Price Index ("CPI") during the most recent twelve (12) consecutive month period beginning on June 1 and

ending on May 31. For example, with regard to the CPI adjustment on October 1, 2021, the relevant period will be June 1, 2020 through May 31, 2021.

At the County's option, the percentage change in the CPI may be obtained by consulting the website published by the U.S. Department of Labor, Bureau of Labor Statistics (www.bls.gov; See, e.g., Data Tools, All Urban Consumers (Current Series), tables, June 2020). In the alternative, the percentage change shall be calculated by the County using the following formula:

$$PC = \text{CPI 1 divided by CPI 2, minus 1.0, multiplied by 100}$$

Where:

PC is the percentage change in the CPI from one year to the next

CPI 1 is the CPI index number for the most recent June (e.g., June 2020)

CPI 2 is the CPI index number for June in the year before CPI 1 (e.g., June 2019)

Notwithstanding anything else contained herein, a single CPI adjustment to the Rate shall not exceed four percent (4%) and there shall be no "catch up" adjustment to the Rate in future years (i.e., there will not be an adjustment to the Rate in the future to offset or mitigate the effect of the four percent (4%) "cap" in a year when the CPI adjustment would exceed four percent (4%), but for the four percent (4%) limitation contained herein).

If the Director concludes, based on the requirements herein, that there shall be a CPI adjustment on October 1 of the next Operating Year, the Director shall promptly provide notice to the Contractor concerning the CPI adjustment. The Director also shall provide the Contractor with the County's calculations concerning the amount of the CPI adjustment. The Contractor shall notify the Director within ten (10) Operating Days if the Contractor disagrees with the County's calculations.

If the CPI is discontinued or substantially altered, the County may select another relevant price index published by the United States government or by a reputable publisher of financial and economic indices.

SECTION 30: EXTRAORDINARY RATE ADJUSTMENTS

Once each Operating Year, before April 1, the Contractor may petition the Administrator for a Rate adjustment on the basis of extraordinary or unusual changes in the cost of its operations that could not reasonably be foreseen by a prudent Person. The Contractor's petition shall contain a detailed justification for the Rate adjustment. Among other things, the Contractor's petition shall include an audited statement of the Contractor's historical and current expenses, demonstrating that the Contractor has incurred an extraordinary increase in the Contractor's costs due to factors beyond the Contractor's control, which have occurred through no fault or negligence of the Contractor. The audited statement shall be prepared by a certified public accountant that is licensed in the State of Florida and not an employee of the Contractor or its affiliates. At its expense, the County may audit the Contractor's records to evaluate the Contractor's request. The Administrator may request, and upon request the Contractor shall provide, all of the information that is reasonably necessary for the Administrator to evaluate the Contractor's petition. After receiving the requested information, the Administrator shall place the Contractor's petition and

the Administrator's recommendations on the agenda for one of the Board's public meetings. The Contractor shall be given a reasonable opportunity at the Board's meeting to explain the basis for its petition.

The Board shall grant, grant in part, or deny the Contractor's request in a timely manner. The Board may deny the Contractor's request for any reason the Board deems appropriate. The Board's decision shall be final and non-appealable.

If the Contractor's request is granted in whole or in part, the Board may impose conditions or limitations on its approval. Among other things, the Board shall have the right to reduce the Contractor's Rate, if and to the extent that the factors causing the Contractor's price increase have been ameliorated or eliminated. Every twelve (12) months after a request is granted, the Administrator shall have the right to request, and the Contractor shall prepare promptly upon request, an updated audit and explanation of whether the extraordinary Rate increase should remain in effect. The Administrator may reduce the Contractor's Rate to the levels that were in effect before the extraordinary Rate increase was granted, or to an appropriate intermediate level, unless the Contractor demonstrates that the County should continue to pay the extraordinary Rate increase. The Administrator shall provide advance notice and a reasonable opportunity for the Contractor to be heard, before the Administrator reduces the Contractor's Rate. Any decision by the Administrator to reduce the Contractor's Rate may be appealed to the Board.

SECTION 31: MINIMUM INSURANCE REQUIREMENTS

31.1 CONTRACTOR'S INSURANCE

The Contractor shall maintain, on a primary and non-contributory basis, and at its sole expense, at all times after the Effective Date until this Agreement expires or is terminated, policies of insurance that insure the Contractor against claims, demands, or causes of action for injuries received or damages to people or property caused by or resulting from the Contractor's negligent acts, and errors or omissions under this Agreement. At a minimum, the Contractor shall maintain at all times the following insurance coverage, with the limits and endorsements described herein. The requirements contained herein, as well as the County's review of and comments concerning the insurance maintained by the Contractor, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Agreement.

- (a) Loss Deductible Clause: The County shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor and/or subcontractor providing such insurance.
- (b) Worker's Compensation Insurance: The Contractor shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of its employees connected with the Contractor's work under this Agreement and, in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. Such

insurance shall comply fully with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this contract at the Site of the project is not protected under the Worker's Compensation statute, the Contractor shall provide and cause each subcontractor to provide adequate insurance, satisfactory to the County, for the protection of its employees not otherwise protected. Coverage shall include Employers Liability \$100,000 each accident, \$100,000 each Disease/Employee and \$500,000 each Disease/Maximum.

- (c) Commercial Automobile Liability Insurance: The Contractor shall take out and maintain during the life of this Agreement Comprehensive Automobile Liability Insurance for "Any Auto" (owned, hired and non owned) for a minimum of \$1,000,000 Combined Single Limit.
- (d) Commercial General Liability Insurance: The Contractor shall take out and maintain during the life of this agreement Commercial General Liability insurance including coverage for bodily injury, property damage, personal/advertising injury and products/completed operations for negligent acts which may arise from operations under this Agreement whether such operations are alone or by anyone directly or indirectly employed by it. The policy shall include Contractual Liability to cover the hold harmless and indemnity provisions in this Agreement. A per project limit of liability is required. The amounts of such insurance shall be the minimum limit as follows:

Each Occurance -	\$1,000,000
Personal/Advertising Injury -	1,000,000
Products/Completed Operations Aggregate -	\$2,000,000
General Aggregate -	\$2,000,000
Fire Damage -	\$100,000 any 1 fire
Medical Expense -	\$10,000 any 1 person

- (e) Commercial Automobile and General Liability Insurance: The Contractor shall require each of its subcontractors to procure and maintain during the life of the subcontract, insurance of the type specified above, or the Contractor shall insure the activities of its subcontractors in its policy, as specified above.
- (f) Waiver of Subrogation. The Contractor hereby waives any and all rights of subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

31.2 CERTIFICATE(S) OF INSURANCE

On or before the Effective Date, the Contractor shall provide the County with a Certificate of Insurance evidencing that all coverages, limits, and endorsements required herein are maintained

and in full force and effect. Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify requirement, when available by endorsement from the Contractor's insurer. If the Contractor receives a non-renewal or cancellation notice from an insurance carrier concerning the coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, the Contractor shall provide notice to the County by email to pur_div@martin.fl.us within five (5) Operating Days, and the notice shall include a copy of the non-renewal or cancellation notice or a written statement specifically identifying the coverage that is no longer in compliance. The Certificate of Insurance shall identify the County's RFB (RFB2021-3291) and this Agreement in the Certificate. The Certificate Holder shall be identified as:

Board of County Commissioners of Martin County
2401 SE Monterey Road
Stuart, Florida 34996

The County shall have the right to withhold any payment to the Contractor until evidence of coverage, reinstated coverage, or replacement coverage is provided to the County. If the Contractor fails to maintain the insurance required herein, the County shall have the right, but not the obligation, to purchase replacement insurance to satisfy the unmet requirements, and the Contractor shall reimburse any premiums or other expenses incurred by the County.

SECTION 32: PERFORMANCE BOND

The Contractor shall furnish to the County an irrevocable, annually renewable, Performance Bond for the faithful performance of this Agreement and all of the Contractor's obligations hereunder. The Performance Bond shall be in the amount of One Hundred Fifty Thousand Dollars (\$150,000). The form and content of the Performance Bond shall be substantially the same as the draft bond in Exhibit F and shall be subject to the approval of the County Attorney and Risk Manager. The Performance Bond shall be issued by a surety company that is acceptable to the County. At a minimum, the surety company shall be rated "A" or better as to management and "FSC VIII" or better as to strength by Best's Insurance Guide or Surety and shall be listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds. The Surety shall have been in business and have a record of successful and continuous operation for at least five (5) years. The Performance Bond shall: (a) contain any provisions required by Applicable Law; (b) guarantee the performance of the Agreement; and (c) not be canceled or altered without at least thirty (30) calendar days' prior notice to the County. The Contractor shall furnish the Performance Bond to the County's Purchasing Manager (c/o the County Attorney) at the address provided in Section 59, below, on or before the Effective Date. The Performance Bond shall be maintained in full force and effect at all times during the term of this Agreement.

Maintenance of the Performance Bond and the performance by the Contractor of all of the obligations under this Section 32 shall not relieve the Contractor of liability under the default and termination provisions set forth in this Agreement or from any other liability resulting from any breach of this Agreement. The Performance Bond may be "called" and used if there is any default or breach of this Agreement by the Contractor. Calling or using the Performance Bond shall not restrict or preclude the use of any other remedies available to the County against the Contractor for breach, default, or damages.

In the event of a strike of the employees of the Contractor or any other labor dispute or shortage which makes performance of this Agreement by the Contractor substantially impossible, the County shall have the right to call the Performance Bond five (5) days after giving notice to the Contractor. The County shall have the right, but not the obligation, to engage another Person to provide the necessary services under this Agreement.

SECTION 33: RECORDKEEPING AND REPORTING

The Contractor shall be solely responsible for keeping all of the records and documents necessary to demonstrate that Contractor has performed its duties in compliance with the requirements in this Agreement. The Contractor's records shall be accurate, well-organized and up-to-date at all times. The Contractor's records concerning its performance under this Agreement shall be kept in the Contractor's local office or in another location in Martin County for at least three (3) years following the expiration or termination of this Agreement.

The Contractor shall prepare and provide the County with a monthly activity report for each Operating Month. The monthly activity report shall follow the format shown in Exhibit C. The monthly activity report shall include the following information:

- (a) The weight of all inbound material accepted at the Site, the weight of all outbound Yard Trash transported from the Site, the weight of all other outbound material, and the weight of all remaining onsite material (i.e., the Net Balance On-Site). All data reported must agree with the County's scale house data.
- (b) A daily log of the hours of the Contractor's operations on site.
- (c) A daily log for each employee on-Site, including supervisors, operators, spotters, and any other full-time, part-time or casual laborers, indicating the times when the employee arrived and left the Site.
- (d) A daily log concerning the weather conditions on the Site, including wind speed and direction.
- (e) The date, time, location, and description of all watering methods used to control Fugitive Emissions.
- (f) The date, time, and wind speed when Contractor's operations were suspended due to the possibility of Fugitive Emissions.
- (g) The date, time, and location of each injury to the Contractor, its employees, or Customers requiring medical attention. These incidents also shall be reported to the County as soon as possible after providing treatment, followed by a written incident report within twenty-four (24) hours. All such incidents shall be noted in the Contractor's daily log.
- (h) All incidents involving damage to the County's Site, Center, buildings, equipment, or other property shall be reported to the County immediately and included in the monthly activity report.

governmental function, or that the Contractor is acting on behalf of the County as provided under Section 119.011(2), Florida Statutes, or that the statements or provisions are otherwise applicable to the Contractor. As stated below, the Contractor may contact the County's Custodian of Public Records with questions regarding the application of the Public Records Law; however, the Contractor is advised to seek independent legal counsel as to its legal obligations. The County cannot provide the Contractor advice regarding its legal rights or obligations. The County shall provide the Contractor with written notice if the name or contact information for the Public Records Custodian changes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACTOR'S WORK UNDER THIS AGREEMENT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT TELEPHONE NO. 772-419-6959; E-MAIL: PUBLIC_RECORDS@MARTIN.FL.US; MAILING ADDRESS: 2401 SE MONTEREY ROAD, STUART, FLORIDA 34996.

If the Contractor is providing services and is acting on behalf of the County as provided under Section 119.011(2), Florida Statutes, the Contractor shall comply with the public records law and shall:

- (a) Keep and maintain public records required by the County to perform the services.
- (b) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement if the Contractor does not transfer the records to the County.
- (d) Upon completion of the Contractor's work under this Agreement, transfer at no cost to the County, all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

All of the Contractor's reports to the County shall be submitted in an electronic (digital) format that is compatible with the County's software (currently Microsoft). Hard copies also shall be provided, if requested by the Director. The format and content of the Contractor's reports are subject to the Director's approval. The reports shall be signed by the District Manager or other duly authorized representative of the Contractor.

All of the Contractor's reports and logs shall be maintained in an electronic database that is compatible with the County's software systems. The database shall be available for inspection by the County at any reasonable time during normal business hours. Upon request, the information in the reports and logs shall be provided to the Director within five (5) Operating Days. The general format and content of the Contractor's logs shall be subject to the Director's approval.

The Contractor shall cooperate with the Director and provide every reasonable opportunity for the County to ascertain whether the duties of the Contractor are being performed properly. The Contractor shall promptly provide any information regarding the services provided by the Contractor under this Agreement, in addition to the information required explicitly by this Agreement, that the Director or the Contractor deem relevant under the circumstances.

The County shall have the right to inspect, copy, and audit, at the County's expense, all of the Contractor's records concerning the Contractor's services under this Agreement, except documents that are exempt from disclosure under Florida law. The Contractor's records shall be made available for inspection in the County during normal business hours, or the records shall be submitted to the County in an electronic (digital) format, within five (5) Operating Days after the Director requests the records.

SECTION 34: PUBLIC RECORDS

In accordance with Chapter 119, Florida Statutes, any written documents that are submitted to the County will become the property of the County and will not be returned. All information contained within such documents shall be available for public inspection, except as otherwise provided under Chapter 119, Florida Statutes, or other Applicable Laws. If the Contractor claims that any documents provided to the County are exempt from Florida's public records laws, the Contractor must identify specifically any information that the Contractor considers confidential, proprietary, or trade secrets, and the Contractor must specifically cite the applicable law creating such exemption. In the event that the County is served with a subpoena or order of a court or agency seeking disclosure of a document identified by the Contractor as exempt from disclosure, the County shall notify the Contractor, and provide the Contractor with an opportunity to seek an appropriate protective order or other relief. The County may disclose any document in accordance with a lawful court or agency order, in the event that the Contractor fails to obtain a protective order, or other appropriate relief barring the disclosure of the Contractor's documents.

The Parties acknowledge and agree that the statements and provisions below are required to be included in this contract pursuant to Section 119.0701(2), Florida Statutes. The inclusion of this statement and provisions below shall not be construed to imply that the Contractor has been delegated any governmental decision-making authority, governmental responsibility, or

Failure of the Contractor to comply with Chapter 119, Florida Statutes, or the requirements of this Section 34 shall constitute a default under this Agreement and shall be grounds for termination of this Agreement.

SECTION 35: REGULATORY COMPLIANCE

The Contractor must obtain and maintain at all times any and all permits and licenses required to complete its work under this Agreement. The Contractor shall comply with all Applicable Laws. The Contractor shall follow the best management practices applicable to each aspect of the Contractor's activities.

The Contractor's activities on the Site are subject to regulation by the Florida Department of Environmental Protection ("FDEP") pursuant to the settlement agreement that is attached hereto as Exhibit G, and the FDEP Operating Permit that is attached hereto as Exhibit H, as well as any revisions to these documents that may be made from time to time. Pursuant to these and other applicable FDEP requirements, the Contractor shall use all reasonable measures to control Fugitive Emissions from all sources at the Site. Consistent with Section 15, above, the Contractor shall ensure that the on-Site management, Processing, storage and transport of materials does not cause Fugitive Emissions.

The Contractor may be required to submit reports to FDEP pursuant to FDEP's rules. The Contractor shall provide the County copies of these reports and all other reports that are sent to local, state or federal environmental agencies. All reports must be submitted to the County when they are submitted to the environmental agencies.

The Contractor shall coordinate with the County before the Contractor contacts or otherwise communicates with the FDEP concerning the settlement agreement and Operating Permit that are attached hereto as Exhibits G and H. The County shall have exclusive authority to determine whether to seek any amendments or modifications of the requirements contained in these documents.

SECTION 36: CITATIONS FOR NONCOMPLIANCE WITH AGENCY REGULATIONS

The Contractor shall conduct its operations in compliance with all Applicable Laws and this Agreement. If the Contractor receives any Citations, the Contractor shall provide a copy of each Citation to the County no later than five (5) Operating Days after the Citation is received by the Contractor. Thereafter, the Contractor shall keep the County informed about the on-going status of the Contractor's efforts to address the Citation. The Contractor shall notify the County when the Citation has been satisfactorily resolved. The Contractor shall pay all costs of investigating and responding to Citations, all costs of correcting deficiencies and achieving compliance with Applicable Law, and all fines assessed as a result of the Contractor's noncompliance with Applicable Law.

SECTION 37: THE CONTRACTOR'S RELATIONSHIP WITH THE COUNTY

37.1 AVAILABILITY OF THE CONTRACTOR'S REPRESENTATIVES

The Contractor shall cooperate with the County in every reasonable way to facilitate the successful completion of the activities contemplated under this Agreement. The Director shall have twenty-four (24) hour access to the Contractor's District Manager via telephone and electronic mail from the County. Answering machines, pagers, or other devices that do not provide for immediate contact with the Contractor's District Manager shall not satisfy the requirements of this paragraph. The Contractor's District Manager shall meet with the Director within five (5) Operating Days after receiving a request for a meeting to discuss the Contractor's performance under this Agreement or other issues of concern to the Director.

37.2 DIRECTOR'S REVIEW OF THE CONTRACTOR'S PERFORMANCE

The Director is hereby designated as the public official responsible for the day-to-day administration of this Agreement by the County. The Contractor shall diligently work with the Director to formulate and adopt procedures that will facilitate the Contractor's performance under this Agreement and the Director's review of the Contractor's work.

37.3 THE COUNTY'S RIGHT TO INSPECT THE CONTRACTOR'S OPERATIONS

The County shall have the right to inspect the Contractor's facilities and operations at any reasonable time to determine whether the Contractor's performance complies with the requirements of this Agreement. The Contractor shall make its facilities and operations available for the County's inspection and shall cooperate fully. The County is not obligated to provide advance notice of its inspections.

37.4 THE COUNTY'S RIGHT TO REVIEW OR APPROVE

Whenever this Agreement authorizes the County or one of its representatives (e.g., the Director) to approve a request by the Contractor, the County shall have the right to withhold its approval until the Contractor submits all of the information needed to evaluate the Contractor's request. The County shall fairly and objectively evaluate the information provided by the Contractor, as well as any other relevant facts. However, the County shall have the exclusive right to weigh the relevant facts and determine whether the approval of the Contractor's request is consistent with the requirements in this Agreement and the public interest.

Under this Agreement the County shall have the right, but not the obligation, to review and comment on various documents provided by the Contractor, including the Transition Plan, Operations Plan, Contingency Plan, performance bond, and insurance. The County's failure to review or comment on any such document shall not in any way diminish the Contractor's duties, obligations, or liabilities hereunder. If the County notifies the Contractor that one of its plans or other documents fails to comply with the requirements in this Agreement, the Contractor shall

revise the document to correct the defect and then the Contractor shall submit the revised document to the County for its review, within ten (10) Operating Days after receiving the County's notice.

37.5 THE COUNTY'S RIGHT TO REQUIRE PERFORMANCE

The County shall have the right to take all steps necessary to ensure that the Contractor performs all of its duties and obligations under this Agreement in compliance with the requirements herein. If the Contractor fails to perform in compliance with this Agreement, the Director may instruct the Contractor to remedy the deficiency in the Contractor's performance. If the Contractor fails to do so within three (3) Operating Days after the Contractor receives the Director's request, or within such additional time as the Director deems reasonable under the circumstances, the County may take such measures as it deems appropriate using its own resources or by using a third party vendor to complete the tasks required. The County may deduct the cost of performing such tasks from the County's monthly payments to the Contractor. The remedies in this Section 37.5 shall be in addition to and not in lieu of any other remedy contained herein.

37.6 EDUCATIONAL TOURS

When requested by the Director, the Contractor shall conduct educational tours of the Site for the County, students, and other members of the public. The Director shall provide reasonable advance notice to the Contractor before scheduling any such tours. The Director shall coordinate with the Contractor to ensure that such tours do not unduly interfere with the Contractor's operations at the Site.

37.7 MODIFICATIONS TO SCOPE OF SERVICES

The Contractor's scope of services under this Agreement may be modified pursuant to written amendments of this Agreement, but only if such amendments are mutually acceptable to both Parties and executed in accordance with the procedures set forth herein. For example, the Contractor and the County may wish to consider the following amendments to this Agreement in the future:

- (a) Processing Services. The Contractor may be asked, from time to time, to perform additional services affiliated with Processing Yard Trash at the Site or the Center.
- (b) Emergency Services. In the event of an emergency or Force Majeure event:
 - (1) The Contractor may be asked to provide emergency services to the County. This work may include supplemental Processing of Yard Trash at the Site, the Center, or other locations designated by the County.
 - (2) Notwithstanding anything else contained herein, the County shall have the exclusive right to determine how and when it responds to an emergency or Force Majeure event. The County may hire additional third-party contractors or use the County's own employees and resources to address such conditions. The Contractor shall have no right to additional compensation for providing

services during an emergency or Force Majeure event, unless the County and the Contractor execute an appropriate written agreement authorizing additional payments for the Contractor's services.

(3) Any compensation paid to the Contractor for providing emergency services shall be determined solely by the County and shall be limited to either:

(i) The Rate established in this Agreement or

(ii) The rates for labor and equipment established or approved by the Federal Emergency Management Agency.

(c) Public convenience center. The County may wish to provide a public drop-off center or convenience center in the future. The County and the Contractor agree to work cooperatively and in good faith to evaluate the potential cost, location, operation, and benefits of such a facility.

(d) Emerging markets and technologies. The County and the Contractor agree that Recycling markets and technologies are continuing to evolve. The Parties agree to work cooperatively to evaluate changes that have the potential to reduce the costs of Recycling, improve Recycling operations, or improve Recycling rates.

SECTION 38: NO LIABILITY FOR FORCE MAJEURE EVENTS

If the County or the Contractor is unable to perform or is delayed in the performance of any obligations under this Agreement by reason of any event of Force Majeure, such inability or delay shall be excused for the time during which compliance is prevented by such event and during such period thereafter as may be reasonably necessary for the County or the Contractor to correct the adverse effect of such event of Force Majeure.

The Contractor shall not be entitled to compensation from the County during the period of time when the delay or non-performance occurs, except and only to the extent that the Contractor is able to perform in compliance with the requirements herein. The County shall not be liable for any loss suffered by the Contractor as a result of an event of Force Majeure.

Labor disputes, labor shortages, changing economic conditions, and the economic hardship of the Contractor shall not be considered an event of Force Majeure.

To be entitled to the benefit of this Section 38, a Party claiming an event of Force Majeure shall give prompt written notice to the other Party, specifying in detail the event of Force Majeure, and shall diligently proceed to correct the adverse effect of any Force Majeure. The Parties agree that, as to this Section 38, time is of the essence.

SECTION 39: ADMINISTRATIVE CHARGES

The County and the Contractor acknowledge and agree that it is difficult or impossible to accurately determine the amount of damages that would or might be incurred by the County due to those failures or circumstances described in this Section 39 and for which the Contractor

would otherwise be liable. Accordingly, the Contractor and the County have established the terms and amounts of the administrative charges set forth herein, and the Parties agree that the administrative charges are reasonable under the circumstances. The Contractor and the County also have consulted with their legal counsel and confirmed that these administrative charges are appropriate. Therefore, the following administrative assessments shall constitute liquidated damages, not penalties, for the Contractor's breach of this Agreement:

- (a) Failure to pick up or clean up Solid Waste, litter, or other material on the Site in compliance with the requirements in this Agreement, within one Operating Day after receiving oral notification by the Director. Each failure shall result in the imposition of a One Hundred Fifty Dollar (\$150) assessment. An additional assessment shall be imposed for each additional Operating Day of delay.
- (b) Failure to clean up spilled liquids, including but not limited to oil and hydraulic fluids, within the deadlines set forth in Section 18. Each failure shall result in the imposition of an assessment of Five Hundred Dollars (\$500). An additional assessment shall be imposed for each additional Operating Day of delay.
- (c) Failure to prevent Fugitive Emissions on the Site. Each occurrence of Fugitive Emissions shall result in the imposition of an assessment in the amount of Three Hundred Dollars (\$300). An additional assessment shall be imposed for each additional Operating Day of delay.
- (d) Failure to have a vehicle operator properly licensed, or failure of the operator to carry his license while on duty. Each failure shall result in the imposition of an assessment in the amount of One Hundred Dollars (\$100).
- (e) Failure to file a report or document required herein within five (5) Operating Days after receiving written notice from the County that such report or document is overdue. Each failure shall result in the imposition of an assessment in the amount of One Hundred Dollars (\$100) for each report or document. An additional assessment shall be imposed for each additional Operating Day of delay.
- (f) Failure to have a trained spotter or operator on duty at a Tipping Area when Yard Trash is being unloaded at that Tipping Area. Each failure shall result in the imposition of an assessment of One Hundred Dollars (\$100).
- (g) Placing, storing, or otherwise having any vehicles, equipment, supplies, processed or unprocessed Yard Trash, or other materials outside the Site, and on the County's property, without receiving the Director's prior written approval for such actions, more than two (2) Operating Days after receiving the Director's oral instructions to remove the same. Each such event shall result in the imposition of an assessment in the amount of Two Hundred Dollars (\$200). An additional assessment shall be imposed for each additional Operating Day of delay.

SECTION 40: OPERATIONS DURING DISPUTE

If a dispute arises between the County, the Contractor, or any other Person concerning the Contractor's performance, rights, or compensation under this Agreement, the Contractor shall continue to perform its duties in strict compliance with the requirements of this Agreement, regardless of the pending dispute.

SECTION 41: LIABILITY AND DAMAGES

41.1 LIABILITY

The Contractor shall be liable for all injuries and conditions that are caused by or result from the Contractor's actions, including but not limited to the Contractor's failure to perform in accordance with the terms of this Agreement.

41.2 DAMAGES

The measure of damages to be paid by the Contractor to the County or by the County to the Contractor, due to any failure by the Contractor or the County to meet any of its obligations under this Agreement, shall be the actual damages incurred by the County or the Contractor. Neither Party shall have any liability under this Agreement for consequential, delay, special, indirect, or punitive damages. The foregoing shall apply except as provided for under either Party's rights to the Performance Bond or the insurance proceeds, or as provided by Applicable Law.

If the Contractor fails to comply with any Applicable Law, the Contractor shall promptly pay to the County the following:

- (a) All lawful fines, penalties, and forfeitures charged to the County by any judicial order or by any governmental agency responsible for the enforcement of the Applicable Law; and
- (b) The actual costs incurred by the County as a result of the Contractor's failure to comply with the Applicable Law, including any costs incurred in investigating and remedying the conditions which led to or resulted from the Contractor's failure to comply with the Applicable Law.

41.3 NO PERSONAL LIABILITY

Nothing in this Agreement shall be construed as creating any personal liability on the part of any officer, employee, agent or representative of the County or the Contractor.

SECTION 42: INDEMNIFICATION

To the greatest extent allowed by Applicable Law, the Contractor releases and shall indemnify, hold harmless, and, if requested by the County, defend, each County Indemnified Party from and against any Indemnified Loss. The obligation of the Contractor under this Section 42 is absolute

and unconditional; to the extent allowed by Applicable Law or not otherwise prohibited, it is not conditioned in any way on any attempt by a County Indemnified Party to collect from an insurer any amount under a liability insurance policy, and is not subject to any set-off, defense, deduction, or counterclaim that the Contractor might have against the County Indemnified Party.

The County may employ any outside counsel of its choice or may use its in-house counsel to enforce or defend the County's right to indemnity provided by this Agreement. If a County Indemnified Party requests that the Contractor defend it with respect to any Indemnified Loss, the County Indemnified Party may participate in the defense at the Contractor's sole cost and expense. The Contractor shall advance or promptly reimburse to a County Indemnified Party any and all costs and expenses incurred by the County Indemnified Party in connection with investigating, preparing to defend, settling, or defending any legal proceeding for which the County Indemnified Party is entitled to indemnification under this Agreement, whether or not the County Indemnified Party is a party or potential party to it.

SECTION 43: DISPUTE RESOLUTION AND LITIGATION

43.1 DUTY TO COOPERATE

The County and Contractor agree to cooperate and act in good faith at all times when dealing with each other. If a dispute arises between the Parties, the Parties shall attempt to resolve their differences quickly and informally. If they are unable to do so, they shall seek relief by following the procedures set forth below.

43.2 DUTY TO MEDIATE

As a condition precedent to filing a lawsuit, all claims, disputes and controversies arising out of or related to the performance, interpretation, application or enforcement of this Agreement, including but not limited to claims for payment and claims for breach of this Agreement, shall be referred to non-binding mediation before initiation of any adjudicative action or proceeding, at law or in equity. All applicable statutes of limitations and defenses based on the passage of time shall be tolled while the mediation process is pending. The Parties shall take all reasonable measures necessary to effectuate such tolling.

43.3 MEDIATION PROCEDURES

Mediation may be initiated by either Party by serving a written request for mediation on the other Party. The Parties shall, by mutual agreement, select a mediator within 15 days of the date of the request for mediation. If the Parties cannot agree on the selection of a mediator, the County shall select the mediator, who, if selected solely by the County, shall be a mediator certified by the Supreme Court of Florida. The mediation shall be conducted in Martin County, Florida, in accordance with the Florida Supreme Court's mediation rules and Chapter 44, Florida Statutes, within sixty (60) days after the appointment of the mediator. The mediator's fee shall be paid in equal shares by each Party to the mediation. Each Party shall pay their own attorneys' fees and costs for the mediation.

43.4 FAILURE TO MEDIATE

If a Party fails to comply with the requirements in Sections 43.2 or 43.3, above (e.g., by filing a lawsuit without mediating before filing the lawsuit), the breaching Party shall be liable for the reasonable attorneys' fees and costs incurred by the other Party in enforcing the provisions herein, and such fees and costs shall be awarded by the Court.

43.5 ATTORNEYS' FEES

In any dispute concerning this Agreement, the Parties shall pay their own costs, attorneys' fees, and expenses, including the costs, fees, and expenses incurred in any trial, appeal, and mediation concerning the issues in dispute, except as otherwise provided in Section 43.4, above, and Section 43.7, below. Nothing herein shall constitute a waiver of Section 57.105, Florida Statutes, as amended.

43.6 WAIVER OF JURY TRIAL

The Parties agree that any claim filed in state or federal court concerning this Agreement shall be heard by a judge, sitting without a jury. AFTER CONSULTING WITH THEIR OWN LEGAL COUNSEL, THE COUNTY AND THE CONTRACTOR HEREBY KNOWINGLY, VOLUNTARILY, AND PERMANENTLY WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL CONCERNING THE PERFORMANCE, INTERPRETATION, APPLICATION OR ENFORCEMENT OF THIS AGREEMENT. THIS WAIVER OF A TRIAL BY JURY INCLUDES BUT IS NOT LIMITED TO TRIALS WITH AN ADVISORY JURY.

43.7 SANCTIONS FOR REQUESTING JURY TRIAL

IF A PARTY REQUESTS A JURY TRIAL, INCLUDING BUT NOT LIMITED TO A TRIAL WITH AN ADVISORY JURY, IN ANY CASE IN WHICH THE RIGHT TO A JURY TRIAL HAS BEEN WAIVED PURSUANT TO SECTION 43.6, THAT PARTY SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS INCURRED BY THE OTHER PARTY IN OPPOSING THE REQUEST FOR A JURY TRIAL, PROVIDED: (A) THE PARTY OPPOSING THE REQUEST NOTIFIED THE OTHER PARTY IN WRITING THAT THE RIGHT TO A JURY TRIAL HAD BEEN WAIVED PURSUANT TO SECTION 43.6; (B) THE PARTY REQUESTING THE JURY TRIAL FAILED TO WITHDRAW ITS REQUEST WITHIN THIRTY (30) DAYS AFTER RECEIVING SUCH NOTICE; AND (C) THE COURT RULES THAT THE RIGHT TO A JURY TRIAL HAD BEEN WAIVED PURSUANT TO SECTION 43.6. IN SUCH CASES, THE COURT SHALL AWARD REASONABLE ATTORNEYS' FEES AND COSTS TO THE PARTY OPPOSING THE JURY TRIAL.

43.8 GOVERNING LAW AND VENUE

The laws of the State of Florida shall govern the rights, obligations, duties and liabilities of the Parties to this Agreement and shall govern the interpretation of this Agreement. Any and all legal or equitable actions necessary to enforce this Agreement shall be held and maintained solely in the state and federal courts in and for Martin County, Florida. Venue shall lie exclusively in Martin County.

43.9 WAIVER OF TORT CLAIMS

The Parties expressly and specifically hereby waive all tort claims they may have arising under or in any way connected with this Agreement.

43.10 REMEDIES ARE CUMULATIVE

Except as otherwise expressly provided herein, the remedies specified in this Agreement supplement, and are not in lieu of, any other remedies provided at law or in equity.

SECTION 44: NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this Agreement shall constitute a waiver of the County's sovereign immunity in tort actions or a waiver of any provisions in Section 768.28, Florida Statutes. Nothing in this Agreement shall constitute the County's consent to be sued by any third party in any matter arising out of this Agreement.

SECTION 45: NO THIRD PARTY BENEFICIARIES

This Agreement does not create any third party beneficiaries. This Agreement confers no rights whatsoever upon any Person other than the County and the Contractor. This Agreement does not create and shall not be interpreted as creating any standard of care, duty, or liability to any Person not a Party hereto, except County Indemnified Parties.

SECTION 46: ENVIRONMENTAL CONDITIONS ON SITE

The Contractor recognizes and acknowledges that the Center has been used for the management and disposal of Solid Waste and, further, groundwater contamination has been detected in the past beneath portions of the Center. In addition, the Contractor recognizes and acknowledges that the County makes no representations or warranties whatsoever concerning the environmental conditions on, in, or beneath the Center. The County also makes no representations or warranties as to whether any pollution or Hazardous Material exists on, in, or beneath the Site.

SECTION 47: PRE-EXISTING CONTAMINATION

The Contractor shall have no liability to the County for any pollution, Hazardous Material, or other contamination on, in, or beneath the Site to the extent that it (a) is present on the date when the Contractor takes possession of the Site or (b) is caused by or results from a release, discharge, or migration of pollution or Hazardous Material on to the Site as a result of the County's acts or omissions. However, notwithstanding the foregoing, the Contractor shall be responsible and liable for pollution, Hazardous Material, or other contamination in, on, beneath, or adjacent to the Site to the extent that it is caused by or results from the Contractor's acts or omissions. For purposes of this Section 47, the acts and omissions of the County and the Contractor include the acts and omissions of their respective officers, employees, agents, invitees, contractors, subcontractors, and anyone acting on their behalf.

SECTION 48: BREACH AND TERMINATION OF AGREEMENT

48.1 TERMINATION BY EITHER PARTY FOR CAUSE

Subject to the other provisions contained herein, either Party may terminate this Agreement if the other Party fails to perform any of its material obligations hereunder. A default by Contractor shall include but not be limited to the following:

- 48.1.1 Refusing to comply with any lawful order of the Director.
- 48.1.2 Failing to begin work within the time specified in this Agreement.
- 48.1.3 Discontinuing operations without prior authorization from the Director.
- 48.1.4 Failing to resume work that has been suspended within a reasonable time, not to exceed two (2) Operating Days, after being notified to do so.
- 48.1.5 Failing to obey any Applicable Law.
- 48.1.6 Soliciting or accepting any Rate, charges or fees from Customers, without receiving the Director's prior written approval.
- 48.1.7 Failing to deliver Yard Trash, Recyclable Materials, or Solid Waste, including Unacceptable Waste, to a facility that is licensed and fully permitted to receive such materials pursuant to Applicable Law.
- 48.1.8 Failing to pay, or circumventing the payment of, any fee that the Contractor is obligated to pay pursuant to this Agreement.
- 48.1.9 Failing to comply with the procedures in the Contractor's Operations Plan.
- 48.1.10 Failing to obtain or continuously maintain insurance policies in the manner required herein.
- 48.1.11 Failing to pay, when due, any sums owed to a subcontractor for services or materials provided pursuant to this Agreement.
- 48.1.12 Failing to provide or continuously maintain the Performance Bond required pursuant to Section 32.
- 48.1.13 A representation or warranty provided by the Contractor in this Agreement is or becomes inaccurate in any material respect.
- 48.1.14 Failing to comply with the limitations in Section 14 concerning the on-Site storage of Yard Trash and other materials (1,500 tons) for two (2) consecutive Operating Months or three (3) Operating Months in any Operating Year.

Before a Party may terminate this Agreement pursuant to this Section 48.1, the non-defaulting Party shall give written notice to the other Party that a default exists which will, unless corrected, constitute an event of default on the part of the defaulting Party. The notice shall inform the defaulting Party that this Agreement shall be terminated unless the default is cured within seven (7) calendar days following the defaulting Party's receipt of the notice. If a cure cannot reasonably be effected within seven (7) days despite the exercise of due diligence, the defaulting Party may request an extension of the cure period. In such circumstances, the defaulting Party shall submit its written request to the non-defaulting Party, explaining in detail why the cure cannot be completed within seven (7) days. The request shall be delivered prior to the expiration of the cure period. If the defaulting Party's request is reasonable, as determined by the Administrator in cases where the defaulting Party is the Contractor, the time to cure the default shall be extended to include such additional time as is reasonably necessary to effect a cure, provided that the defaulting Party exercises continuous diligent efforts to cure the default during the extended cure period. If the defaulting Party fails to cure the default within the cure period, the non-defaulting Party may terminate this Agreement. The termination shall take effect as of the date specified by the non-defaulting Party. Upon termination, the non-defaulting Party may cure the default at the expense of the defaulting Party, and have recourse to any other right or remedy to which the non-defaulting Party may be entitled under this Agreement, at law, or in equity.

Notwithstanding anything else contained herein, each of the events described in Sections 48.1.16, 48.1.17, 48.1.18, and 48.1.19, below shall constitute an event of default for which there shall be no opportunity to cure. For such events, termination shall be effective three (3) calendar days after the non-defaulting Party gives notice to the defaulting Party or at such other time designated by the non-defaulting Party.

48.1.16 Voluntary Bankruptcy

Written admission by a Party that it is bankrupt; or filing by a Party of a voluntary petition under the Federal Bankruptcy Act; or consent by a Party to the court appointment of a receiver or trustee for all or a substantial portion of its property or business; or the making of any arrangement by a Party with, or for the benefit of, its creditors or assigning to a trustee, receiver, or similar functionary (regardless of how designated) all or a substantial portion of a Party's property or business; or by becoming insolvent.

48.1.17 Involuntary Bankruptcy

Final adjudication of a Party as bankrupt under the Federal Bankruptcy Act.

48.1.18 Public Entity Crime

The Contractor is placed on a convicted vendor list following a conviction for a public entity crime; or

48.1.19 Fraud

The Contractor commits an act or omission constituting fraud, gross negligence, misfeasance, or willful malfeasance toward the County.

48.2 HABITUAL VIOLATIONS

If the Contractor frequently, regularly, or repetitively fails to comply with its obligations and requirements under this Agreement, the County may conclude that the Contractor is a “habitual violator,” regardless of whether the Contractor has corrected each individual failure of performance or paid administrative assessments for such failures of performance. In such circumstances, the Contractor shall forfeit the right to receive any further notice or grace period to cure its failures of performance, and all of the prior defaults under this Agreement shall be considered cumulative and collectively shall constitute a condition of irredeemable default. If the County concludes the Contractor is a habitual violator, the County shall issue a final warning to the Contractor, citing the grounds for the warning, and any single default by the Contractor thereafter shall be grounds for immediate termination of this Agreement. If any subsequent default occurs, the Board may terminate this Agreement after giving written notice to the Contractor. The termination shall be effective upon the date designated by the Board.

48.3 INTERIM OPERATIONS

In the event that this Agreement is terminated before the end of any term, the Contractor shall continue to provide its services in compliance with the requirements herein for an interim period of up to six (6) additional Operating Months, if requested to do so by the County. The Contractor shall be paid for its services during the interim period at the Rate authorized under this Agreement, subject to any adjustments pursuant to Sections 28 and 29.

Notwithstanding anything else contained herein, the County may hire an alternate Person to provide Processing services for Yard Trash if the Contractor fails to provide Processing services for a period of five (5) consecutive Operating Days. The County’s interim service provider shall continue to provide Processing services until the Contractor demonstrates to the County’s satisfaction that the Contractor is able to resume work in compliance with the requirements in this Agreement. However, if the Contractor is unable for any reason to resume performance within thirty (30) calendar days, the County may terminate this Agreement, effective as of the date designated by the County. The Contractor shall reimburse the County for any and all reasonable costs incurred by the County related to or arising from the use of an alternate Person to provide Processing services.

48.4 EFFECT OF TERMINATION

If this Agreement is terminated pursuant to the provisions of this Section 48, neither the County nor the Contractor shall have any further duty, right, liability, or obligation under this Agreement, except that: (a) a Party will not be relieved from liability for a breach of a warranty, obligation, or representation under this Agreement that occurred before the effective date of the termination; (b) the County shall pay all amounts owed to the

Contractor, and the Contractor shall pay all amounts owed to the County, pursuant to this Agreement, through the date of the termination; (c) the Contractor shall deliver to the County all reports concerning the Contractor's activities through the end of the Operating Month in which termination occurs; (d) at a minimum, the provisions of Section 42 shall survive and remain in effect for seven (7) years after the expiration or termination of this Agreement; and (e) any term, condition, covenant, or obligation which requires performance by a Party subsequent to the termination of this Agreement shall remain enforceable against such Party subsequent to such termination, including Sections 26, 27, 28, 34, 36, and 41.

48.5 TERMINATION FOR CONVENIENCE

The County reserves the right to terminate this Agreement, without cause, for any reason or for no reason. If the County wishes to exercise this right, the County shall provide written notice to the Contractor at least one hundred eighty (180) days before the date designated by the County for the termination of the Agreement.

SECTION 49: EXTENDED SERVICES

The County anticipates that, before this Agreement expires, the County will issue a RFB or otherwise attempt to procure a third party's services to manage the County's Yard Trash following the expiration of this Agreement. However, the Parties recognize that delays in the County's procurement process or other factors may cause an interruption in the services provided to the public, between the expiration of this Agreement and the commencement of services under a future contract. Accordingly, the County shall have the right to extend this Agreement unilaterally for up to six (6) additional Operating Months if the County deems it necessary to protect public health, safety, or welfare. If the County elects to exercise this right, the Contractor shall provide its services in compliance with the requirements herein, and the Contractor shall be paid for its services during the extension period at the Rate authorized under this Agreement, subject to any adjustments to the Rate authorized pursuant to Sections 28 and 29.

SECTION 50: WAIVER OF RIGHTS

No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or the Contractor at any time to require performance by the other Party of any term in this Agreement shall in no way affect the right of the County or the Contractor thereafter to enforce same. Nor shall waiver by the County or the Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the Party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

SECTION 51: SEVERABILITY

The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement to be impossible or performance.

SECTION 52: SURVIVABILITY

Any term, condition, covenant, or obligation which requires performance by a Party subsequent to termination of this Agreement shall remain enforceable against such Party subsequent to such termination.

SECTION 53: AMENDMENT OF THE AGREEMENT

No modifications or amendments to this Agreement shall be effective unless made in writing and executed by the Parties with the same formalities as the execution of this Agreement.

SECTION 54: ASSIGNMENTS, TRANSFERS, AND SUBCONTRACTS

The Contractor shall perform all of the services and provide all of the goods and equipment required by this Agreement. No assignment or subcontracting of any part or all of this Agreement shall be allowed without the prior written consent of the County. In the event of a corporate acquisition or merger, the Contractor shall provide written notice to the County within thirty (30) business days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first. The right to terminate this Agreement, which shall not be unreasonably exercised by the County, shall include, but not be limited to, instances in which a corporate acquisition or merger represents a conflict of interest or is contrary to an Applicable Law.

SECTION 55: CONSTRUCTION OF AGREEMENT

The following rules shall govern the interpretation and construction of this Agreement:

- (a) The words "include" and "including" shall not be construed to be terms of limitation. References to included matters or items will be regarded as illustrative and will not be interpreted as a limitation on, or an exclusive listing of, the matters or items referred to.
- (b) Whenever the context requires, the singular form of a word includes the plural and the plural includes the singular. The gender of any pronoun includes the other genders.
- (c) The words "shall" and "must" are used when referring to mandatory duties and obligations. The word "may" is permissive.

- (d) Both parties are represented by legal counsel and they waive any rule of law that would require any vague or ambiguous provision herein to be construed against the Party that physically prepared this Agreement. The rule sometimes referred to as "Fortius Contra Proferentum" shall not be applied to the interpretation of this Agreement.
- (e) The word "Section" refers to sections in this Agreement, unless the context clearly indicates otherwise (e.g., citations to the Florida Statutes).
- (f) The word "herein" refers to the provisions in this Agreement.

SECTION 56: DOCUMENTS COMPRISING AGREEMENT

This Agreement and the exhibits attached hereto comprise the entire agreement and understanding between the County and the Contractor. The exhibits attached to this Agreement are incorporated herein by reference. After the Effective Date, the Agreement shall be supplemented with and shall include the following: (a) Performance Bonds; (b) Insurance Certificates; and (c) any amendments to this Agreement that are approved by the Board and the Contractor. There are no Agreement documents other than those listed above. In the event of a conflict between this Agreement and the provisions of any exhibit, the provisions of this Agreement shall control when interpreting this Agreement. In the event that parol evidence is required to interpret this Agreement, the order of precedence shall be: (x) Martin County's Request for Bids (RFB 2021-XXXX) and all of its addenda and attachments; and then (y) the Contractor's Response to the RFB.

SECTION 57: INDEPENDENT CONTRACTOR STATUS

The Contractor is and shall remain an independent contractor. The Contractor is not an agent, employee, partner, or joint venturer of the County.

SECTION 58: CONFLICT OF INTEREST

The Contractor represents that it has no interest and shall acquire no interest that conflicts in any manner with the performance of the Contractor's duties and obligations hereunder, as provided for in Chapter 112, Part III, of the Florida Statutes. The Contractor further represents that no person having any such interest shall be employed by the Contractor for said performance. The Contractor shall notify the County in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance that may influence or appear to influence the Contractor's judgment or the quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake, and request an opinion from the County that the prospective business association, interest or circumstance would not constitute a conflict of interest by the Contractor. If the County shall so state, the Contractor may, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict with respect to the services provided to the County by the Contractor under the terms of this Agreement.

SECTION 59: NOTICES TO PARTIES

All notices, requests, authorizations, approvals, protests, and petitions provided for herein shall be in writing. Except as otherwise expressly provided herein, such documents shall be addressed as shown below and either (a) hand delivered, (b) mailed by registered or certified mail (postage prepaid), return receipt requested, or (c) sent by facsimile. The documents shall be deemed to have been duly delivered when personally delivered, or when transmitted by telecopier (facsimile) and receipt is confirmed by telephone, or when delivered by U.S. Mail or courier service, as shown by the return receipt. For the present, the Contractor and the County designate the following as the appropriate people and places for delivering notices and other documents:

As to County: County Administrator
Martin County
2401 SE Monterey Road
Stuart, Florida 34996
772-288-5939

Copy to: County Attorney
Martin County
2401 SE Monterey Road
Stuart, Florida 34996
772-288-5442

As to the Contractor: Scott Wilson, President
Camo Farms, Inc.
200 2nd Avenue South, Suite 270
St. Petersburg, FL 33701
918-978-7128

Both Parties reserve the right to designate a different representative or representatives in the future, or to change their contact information, by providing written notice to the other Party.

SECTION 60: NOTICE FOR RADON

Section 404.056(5), Florida Statutes, provides the following notice:

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from the county health department.

SECTION 61: CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants to the County that:

(a) The Contractor is a corporation existing in good standing under the laws of the state of its formation, is in good standing under the laws of the State of Florida, and is duly qualified to do business wherever necessary to carry on the business and operations contemplated by this Agreement.

(b) The Contractor has the requisite power, authority, and legal right to enter into and perform its obligations under this Agreement and possesses all orders, permits, consents, licenses, approvals, franchises, certificates, registrations, and other authorizations from third parties and governmental authorities that are necessary to conduct its current business and to satisfy its duties and obligations under this Agreement.

(c) This Agreement has been duly executed and delivered by the Contractor and, as of the Effective Date, constitutes a legal, valid, and binding obligation of the Contractor, enforceable by the County against the Contractor in accordance with its terms, except to the extent its enforceability is limited by the application of general principles of equity and by bankruptcy, insolvency, moratorium, debtor relief, and similar laws of general application affecting the enforcement of creditor rights and debtor obligations.

(d) The execution, delivery, and performance of this Agreement by the Contractor: (1) have been duly authorized; (2) do not require the approval of any governmental officer or body, other than those permits or approvals contemplated to be obtained by the Contractor after the Effective Date; (3) have been duly authorized by all requisite action of the Contractor, and no other proceedings on the part of the Contractor, its officers, partners or managers are necessary to authorize this Agreement or to perform the duties and obligations of the Contractor contemplated by it; (4) will not violate any law applicable to the Contractor or its property or any provisions of the Contractor's articles of incorporation or by-laws; (5) do not constitute a default under or result in the creation of, any lien, charge, encumbrance, or security interest upon any assets of the Contractor under any agreement or instrument to which the Contractor is a Party or by which the Contractor or its assets may be bound or affected in any manner that prohibits or otherwise adversely affects the Contractor's ability to perform its obligations under this Agreement; and (6) do not and will not violate any copyrights, patents, or other intellectual or proprietary rights of any Person.

(e) To the best of the Contractor's information and belief, there is no action, suit, or proceeding, at law or in equity, before or by any court or governmental authority pending against the Contractor in which an unfavorable decision, ruling, or finding would materially and adversely affect the performance by the Contractor of its duties and obligations under this Agreement, or that in any way would adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the Contractor or any of its affiliates in connection with this Agreement.

(f) The Contractor did not engage, directly or indirectly, in any collusion, bribery,

deception, or fraud in connection with its efforts to procure the work awarded under this Agreement.

(g) None of the agents, members, managers, partners, officers, directors, employees, or executives of the Contractor, or any affiliate that is active in the management of the Contractor, has been convicted of a public entity crime, as defined in Section 287.133(g), Florida Statutes.

(h) The personnel employed by the Contractor have the proper skills, licenses, training, background, knowledge, experience, authorizations, integrity, and character necessary to perform the Contractor's obligations in compliance with this Agreement.

(i) No County employee received or will receive, directly or indirectly, any benefit, interest, or profit out of the procurement process that resulted in the award of this Agreement or in connection with this Agreement or the services to be provided pursuant to this Agreement, and no County employee has or will have any direct or indirect financial interest in the award of this Agreement or any of the services to be provided pursuant to this Agreement.

(j) The Contractor acknowledges that Section 287.135, Florida Statutes, prohibits agencies from contracting with companies for goods or services of \$1,000,000 or more, that are on either the Scrutinized Companies with Activities in the Sudan List and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy List, both lists of which are created pursuant to Section 215.473, Florida Statutes, and certifies, represents, and warrants to the County that the Contractor is not on either of those lists. The Contractor acknowledges and agrees that, pursuant to Section 287.135, Florida Statutes, the County may terminate this Agreement and civil penalties may be assessed against the Contractor, if the Contractor is found to have submitted a false certification.

(k) The Contractor acknowledges that it has made, or had an opportunity to make, a thorough and complete inspection of the Center and the Site, and the Contractor is fully advised of the condition of each. The Contractor fully accepts the Site, including all improvements on the Site, as-is, where-is, in their present condition.

IN WITNESS WHEREOF, the County and the Contractor have executed this Agreement as of the date first above written.

ATTEST

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

Carolyn Timmann
Clerk of the Circuit Court and Comptroller

Stacey Hetherington
Chair

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Sarah W. Woods
County Attorney

WITNESSES:

Lynette Lambert
Signature

Lynette Lambert
(Print name of witness)

[Signature]
Signature

Darrell Horn
(Print name of witness)

CAMO FARMS, INC.

By: [Signature]
Scott Wilson, President

ACKNOWLEDGMENT

STATE OF Oklahoma)
COUNTY OF Tulsa) SS:

The foregoing Agreement was acknowledged before me, an officer duly authorized by law to administer oaths and take acknowledgments, by means of ☒ physical presence or ☐ online notarization, this 5 day of April, 2021 by Scott Wilson, as President of Camo Farms, Inc. an organization authorized to do business in the State of Florida, and who executed the foregoing Agreement as the proper official of Camo Farms Inc for the uses and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is ☒ personally known to me or ☐ has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the state and city aforesaid on this 5 day of April, 2021.

My Commission Expires:



[Signature]
NOTARY PUBLIC