



HOMEOWNER'S ASSOCIATION SERVICE AGREEMENT
Waste Management of Ohio, Inc
1006 Walnut st Canal Winchester, OH 43110
866-797-9018

WM Agreement # 2021
 Customer ID N/A
 Acct. Name GREAT LAKES SHORES
 Salesperson 180967
 Effective Date 4/1/2021

Service Information				Billing Information		
Name	GREAT LAKES SHORES	Contact	PATRICK	Name	BILLED TO RESIDENTS	Contact
Address	Varying Address	Telephone #	734-775-0556	Address		Telephone #
City State Zip	LEXINGTON, MI 48450	Fax #		City State Zip		Fax #
County/Parish	SANIL	Email	FLORESTROISI@ATT.NET	County/Parish		Email
				Type of Billing:	Individual Billing	

Service Description & Recurring Rates						
Approximate Quantity	Equipment	Material Stream	Frequency	Base Rate	\$	16.36
1	Option 1: Trash and yard waste billed quarterly	MSW	1 X WEEK	Recycle Material Offset		No*
				Fuel & Environmental/RCR	\$	5.77*
No increase to Base Rate during the first 12 months of the Contract Term, with Base Rate increasing 6% annually thereafter for the remaining Initial Term. Increases to Base Rate remain subject to Section 6(b).						
Current rate for Extra Pickup (per lift): \$ 0.00 Current FSC 11.11%, EVC 17.50%, RCR 3.6%				TOTAL :		22.13*
Approximate Quantity	Equipment	Material Stream	Frequency	Base Rate	\$	16.36
1	Option 2: Trash and yard waste billed annual	MSW	1XWEEK	Recycle Material Offset		No*
				Fuel & Environmental/RCR	\$	4.15*
No increase to Base Rate during the first 12 months of the Contract Term, with Base Rate increasing 6% annually thereafter for the remaining Initial Term. Increases to Base Rate remain subject to Section 6(b).						
Current rate for Extra Pickup (per lift): \$ 0.00 Current FSC 10%, EVC 10.00%, RCR 3.60%				TOTAL :		20.51*
Approximate Quantity	Equipment	Material Stream	Frequency	Base Rate	\$	0.00
				Recycle Material Offset		No*
				Fuel & Environmental/RCR	\$	0.00*
Current rate for Extra Pickup (per lift): \$ 0.00 Current FSC 0%, EVC 0%, RCR 0%						
Customer's Waste Materials not to exceed an average weight of 50.00 lbs/yard.				Administrative Charge	\$	6.50

Initial One Time Service Charges*		As Needed Services*	
Initial Delivery	\$ 25.00	The above listed Charges are for recurring services only. Charges for all additional services will be at current rates at the time of service. These include but are not limited to: extra pickups, container removal, overages and contamination. Contact Waste Management for a full list of such additional services and current prices.	
Removal fee per cart	\$ 75.00		
3 bulk item	\$ 50.00		

* Fuel Surcharge, Environmental Charge, and Regulatory Cost Recovery ("RCR") Charge apply to all other Charges whether or not listed on this summary; any amounts shown above are estimated, and actual amounts will be calculated at the time of invoicing based on a percentage of the Charges. Information about these charges can be found at www.wm.com/billhelp. State & Local taxes, and/or fees and a Recycle Material Offset, if applicable, will also be added to the Charges. An Administrative Charge per invoice will be assessed and can be removed by enrolling in paperless statements and automated payments. If Charges are Group Billed, the Charges total will adjust based on the number of Customer residences. The Association must timely notify Company of any increase or decrease in number of residences in the Association Area. The Association is not entitled to be reimbursed for any overpayment due to the Association's failure to notify Company of a decrease in the number of residences.

This Agreement does not provide for a fixed price during the Contract Term. Unless specifically provided otherwise herein, Association should expect Company to increase Charges as allowed by Section 6(b) and Company to seek other price increases subject to Association's consent under Section 6(c) of this Agreement. Consent to price increases may be given orally, in writing, or by notice and Association's payment of, or failure to object to, the price increase.

Contract Term for monthly rate services is for 3 year(s) from the Effective Date ('Initial Term') and it shall automatically renew thereafter for additional terms of 36 months ('Renewal Term') unless terminated as set forth herein. NOTWITHSTANDING THIS OR ANY OTHER PROVISION IN THIS AGREEMENT TO THE CONTRARY, THIS AGREEMENT MAY AT ANY TIME, ON NOT LESS THAN 30 DAYS WRITTEN NOTICE TO THE ASSOCIATION, BE TERMINATED BY COMPANY FOR CONVENIENCE FOR ANY REASON OR FOR NO REASON.

This Homeowners' Association Service Agreement (this "Agreement") is made as of the Effective Date shown above by and between Waste Management of Ohio, Inc ("Company") and the Association named above, on behalf of the Association and the Customers. The undersigned individual signing this Agreement on behalf of the Association and all of the Customers acknowledges that he/she has read and understands the following terms and conditions of this Agreement and that he/she has the authority to sign on behalf of the Association and all of the Customers.

Customer Signature
 Company: Waste Management of Ohio, Inc

Patrick TROISI
 Printed Name
 Waste Management Sales Rep.
 Title

01/11/2021
 Date
 1/19/2021
 Date

WM TERMS AND CONDITIONS APPLICABLE TO PERMANENT SERVICE

1. (a) **SERVICE GUARANTEE.** We guarantee our Services (as defined below). If Company fails to perform Services in accordance with the agreed upon service summary set forth on page 1 of this Agreement (the "Service Summary"), and Company does not remedy such failure within five (5) business days of its receipt of a written demand from Association, Association may immediately terminate this Agreement without penalty.

(b) **SERVICES RENDERED; WASTE MATERIALS.** Association grants to Company the exclusive right, and Company through itself and its Affiliates shall furnish equipment and services, to collect and dispose of and/or recycle (collectively, the "Services") all Waste Materials generated, deposited, accumulated, or otherwise coming to exist in (1) the geographical area encompassing all of the residences which are subject to any rules of the Association as of the Effective Date of this Agreement, and (2) any additional geographical area(s) encompassing any additional residences that become subject to any of the rules of the Association, but only if (a) such additional area is in close proximity to the geographical area described in (1) above and (b) Company is able to provide collection services in such additional area (collectively, the "Association Area") make sure you understand this concept of Association area All residential premises within the Association Area (collectively, "Customers," or individually, "Customer") shall be required by the Association to utilize the collection services of Company, as described in this Agreement. The Association represents and warrants that the materials to be collected under this Agreement shall be only "Waste Materials" as defined herein. For purposes of this Agreement, "Waste Materials" means all non-hazardous solid waste generated in the Association Area, which includes Recyclable Materials (as defined in Section 12) if so indicated on the page 1 Service Summary. Waste Materials excludes, and Association and Customers shall not to deposit or permit the deposit for collection of (i) any waste tires, (ii) radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized or listed under applicable federal, state, or local laws or regulations, (iii) any materials containing information protected by federal, state or local privacy and security laws or regulations, (iv) any other items or material prohibited by federal, state or local laws or regulations, or that could adversely affect the operation or useful life of the facility(ies) receiving Association's Waste Materials, or (v) Special Waste not approved in writing by Company (collectively, "Excluded Materials"). Title to and liability for Excluded Materials shall remain with the generator/Customer at all times. Title to Association's Waste Materials is transferred to Company upon Company's receipt or collection unless otherwise provided in this Agreement or applicable law.

2. **REPRESENTATIONS BY THE ASSOCIATION.** The Association and the person signing this Agreement represent and warrant to Company that (1) the Association has the authority under the applicable covenants conditions and restrictions and/or other constituting or governing documents to enter into this Agreement on behalf of all of the Customers and to obligate all of the Customers to be subject to and to comply with the terms of this Agreement and (2) this Agreement has been approved by the Association's board of directors.

3. **TRANSFER OF CONTROL.** If this Agreement is entered into before control of the Association is transferred to the residents, this Agreement shall be binding on the Association after the transfer of such control.

4. **CONTRACT TERM.** The Initial Term and any subsequent Renewal Term of this Agreement (collectively, the "Contract Term") is set forth on the Service Summary. Unless otherwise specified on the Service Summary, at the end of the Initial Term and any subsequent Renewal Term, the Contract Term shall automatically renew for an additional Renewal Term at the then current Service levels and applicable Charges, unless (a) for a Renewal Term of twelve (12) months or more, either party gives to the other party written notice of termination at least ninety (90) days, but not more than one hundred eighty (180) days, prior to the termination of the then-existing term, and (b) for a Renewal Term of less than twelve (12) months, either party gives to the other party written notice of termination at least thirty (30) days prior to the termination of the then-existing term. Notice of termination received at any other time will be considered ineffective and the Agreement will be considered automatically renewed upon completion of the then-existing term. **NOTWITHSTANDING THIS OR ANY OTHER PROVISION IN THIS AGREEMENT TO THE CONTRARY, THIS AGREEMENT MAY AT ANY TIME, ON NOT LESS THAN 30 DAYS WRITTEN NOTICE TO THE ASSOCIATION, BE TERMINATED BY COMPANY FOR CONVENIENCE FOR ANY REASON OR FOR NO REASON.**

5. **TERMINATION RIGHTS.** Notwithstanding the foregoing, this Agreement can be terminated prior to the end of the Initial Term or a Renewal Term as follows:

(a) by Association (with no obligation to pay liquidated damages as provided in Section 9), (i) if Company fails to satisfy the Service Guarantee provided in Section 1(a) or (ii) pursuant to Section 6(c) if Company increases the Charges payable by Association hereunder with a Consensual Price Increase;

(b) by Association with thirty (30) days prior written notice to Company, subject to Association's obligation to pay liquidated damages as provided in Section 9 no later than thirty (30) days after written notice of termination;

(c) by Company, (i) if as a result of Association's breach of Section 7, Company suspends Services for more than fifteen (15) days, or (ii) if Association fails to cure any other breach of its obligations under this Agreement within five (5) business days of its receipt of written demand from Company to cure such breach; and

(d) by Company, with at least fifteen (15) days prior written notice to the Association, any time after Association retains, designates or appoints a broker or agent to act for Association, or manage its Services, under this Agreement.

In order to move containers in a safe, secure and orderly fashion, Company shall have up to seven (7) days to remove any equipment from Association's service location(s) after the effective date of the termination of this Agreement.

6. (a) **CHARGES; ADDITIONAL SERVICES; CHANGES.** The initial charges, fees and other amounts payable by Association ("Charges") for Services and/or equipment furnished by Company to Association are set forth on the Service Summary. Company also reserves the right to charge Association additional Charges for additional Services provided by Company to Association, whether requested or incurred by Association, including, but not limited to, container relocation or removal; gate, enclosure or roll out services; account resume or reactivation services; extra pickups or trip charges; container overages and overflows; and equipment repair and maintenance (see www.wm.com/billhelp for a list of "Additional Services", which may be updated from time to time), all at such standard prices or rates that Company is charging its Associations in the service area at such time. Changes in the frequency of collection, collection schedule, number, capacity and/or type of equipment, the terms and conditions of this Agreement, and any changes to the Charges payable under this Agreement (including any Consensual Price Increase or Negotiated Price Adjustment), may be agreed to orally, in writing or by other actions and practices of the parties, including, without limitation, electronic or online acceptance or payment of the invoice reflecting such changes, and written notice to Association of any such changes and Association's failure to object to such changes, which shall be deemed to be Association's affirmative consent to such changes.

(b) **PERMITTED PRICE INCREASES.** Company reserves the right, and Association acknowledges that it should expect Company to increase or add Charges payable by Association hereunder during the Contract Term: (i) for any changes or modifications to, or differences between, the actual equipment and Services provided by Company to Association and those specified on the Service Summary; (ii) for any changes or difference in the composition, amount or weight of the Waste Materials collected by Company from Association's service location(s) from what is specified on the Service Summary (including for container overages or overflows); (iii) for any increase in or other modification made by Company to the Fuel Surcharge, Regulatory Cost Recovery Charge, Recyclable Materials Offset, Environmental Charge, and/or any other Charges included or referenced in the Service Summary (which Charges are calculated and/or determined on enterprise-wide basis, including Company and all Affiliates); (iv) to cover any increases in disposal, processing, and/or transportation costs, including fuel surcharges; (v) to cover increased costs due to uncontrollable circumstances, including, without limitation, changes (occurring from and after three (3) months prior to the Effective Date) in local, state, federal or foreign laws or regulations (or the enforcement, interpretation or application thereof), including the imposition of or increase in taxes, fees or surcharges, or acts of God such as floods, fires, hurricanes and natural disasters; and (vi) for increases in the Consumer Price Index ("CPI") for Water, Sewer and Trash Collection Services published by U.S. Bureau of Labor Statistics, or with written notice to Association, any other national, regional or local CPI, with such increases in CPI being measured from the Effective Date, or as applicable, Association's last CPI based price increase date ("PI Date"). Increases to Charges specified in this Section 6(b) may be applied singularly or cumulatively and may include an amount for Company's operating or profit margin. Association acknowledges and agrees that any increased Charges under this Section 6 (including any Consensual Price Increases or Negotiated Price Adjustments) are not represented to be solely an offset or pass through of Company's costs.

(c) **CONSENSUAL PRICE INCREASES.** Without limiting the foregoing, Company also reserves the right to seek, and Association acknowledges that it should expect Company to seek, increases in the Charges payable by Association hereunder for reasons not specifically permitted in Section 6(b) (a "Consensual Price Increase"). If Association does not accept the Consensual Price Increase, Association's sole right and remedy shall be to terminate this Agreement by written notice to Company no later than thirty (30) days after Company notifies Association of such Consensual Price Increase. Association's failure to terminate this Agreement (within the 30-day period) shall be construed as Association's acknowledgement that the continuation of the Services by Company hereunder is good, valuable and sufficient consideration for the Consensual Price Increase. Notwithstanding the foregoing, the parties may, but are not obligated to, agree to a different increase or adjustment to Association's Charges (a "Negotiated Price Adjustment") as a result of a Consensual Price Increase. Absent a Negotiated Price Adjustment, the Consensual Price Increase shall be binding and enforceable against Association under this Agreement unless the Association terminates this Agreement (within the 30-day period) as described above. Association's agreement to a Consensual Price Increase or Negotiated Price Adjustment may be evidenced pursuant to Section 6(a) and the parties agree that this Agreement with such modified Charges will continue in full force and effect.

7. **INVOICES; PAYMENT TERMS.** Company shall send all invoices for Charges and any required notices to Association under this Agreement to Association's billing address specified in the Service Summary, unless Association elects to be billed or receive notices electronically or by e-mail, in which case, all Association invoices and notices also may be delivered in accordance with Association's electronic billing or email instructions. Association shall pay all invoiced Charges within thirty (30) days of the invoice date. Any Association invoice balance not paid within thirty (30) days of the date of invoice is subject to a late charge, and any Association check returned for insufficient funds is subject to a non-sufficient funds charge, both to the maximum extent allowed by applicable law. Association acknowledges that any late charge charged by Company is not to be considered as interest on debt or a finance charge, and is a reasonable charge for the anticipated loss and cost to Company for late payment. If payment is not made when due, Company retains the right to suspend Services until the past due balance is paid in full. In addition to full payment of outstanding balances, Association shall be required to pay a reactivation charge to resume suspended Services. If Services are suspended for more than fifteen (15) days, Company may immediately terminate this Agreement for default and recover any equipment and all amounts owed hereunder, including liquidated damages under Section 9. If Individual Billing is selected on the page 1 Service Summary all residents are responsible for payment to Company and in the event any resident fails to pay Company promptly, Association will assist Company in collecting outstanding amounts owed to Company from the resident.

8. EQUIPMENT, ACCESS. All equipment furnished by Company shall remain its property; however, Association shall have care, custody and control of the equipment and shall be liable for all loss or damage to the equipment and for its contents while at Association's service location(s). Association shall not overload, move or alter the equipment or allow a third party to do so, and shall use it only for its intended purpose. At the termination of this Agreement, Company's equipment shall be in the condition in which it was provided, normal wear and tear excepted. Association shall provide safe and unobstructed access to the equipment on the scheduled collection day. Company may suspend Services or terminate this Agreement in the event Association violates any of the requirements of this provision. Association shall pay, if charged by Company, any additional Charges, determined by Company in its sole discretion, for overloading, moving or altering the equipment or allowing a third party to do so, and for any service modifications caused by or resulting from Association's failure to provide access. Association warrants that Association's property is sufficient to bear the weight of Company's equipment and vehicles and agrees that Company shall not be responsible for any damage to Association's pavement or any other surface resulting from the equipment or Services.

9. LIQUIDATED DAMAGES. In the event Association terminates this Agreement prior to the expiration of the Initial or Renewal Term for any reason other than as set forth in Section 5(a), or in the event Company terminates this Agreement for Association's default pursuant to Section 5(c), Association shall pay the following liquidated damages in addition to Company's legal fees, if any: (a) if the remaining Contract Term (including any applicable Renewal Term) under this Agreement is six (6) or more months, Association shall pay the average of its six (6) monthly Charges immediately prior to default or termination (or, if the Effective Date is within six (6) months of Company's last invoice date, the average of all monthly Charges) multiplied by six (6); or (b) if the remaining Contract Term is less than six months, Association shall pay the average of its six (6) most recent monthly Charges multiplied by the number of months remaining in the Contract Term. Association acknowledges that the actual damage to Company in the event of Association's early termination or breach of contract is impractical or extremely difficult to fix or prove, the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to Company resulting therefrom, and such liquidated damages payment is an agreed upon charge for Association's early termination or breach of contract and is not imposed as a penalty. Association shall also pay liquidated damages of \$100 for every Association waste tire that is found at any disposal facility used by Company. In addition to and not in limitation of the foregoing, Company shall be entitled to recover all losses, damages and costs, including attorneys' fees and costs, resulting from Association's breach of any other provision of this Agreement in addition to all other remedies available at law or in equity.

10. INDEMNITY. Company agrees to indemnify, defend and save Association and its Affiliates harmless from and against any and all liability which Association or its Affiliates may suffer, incur or pay as a result of any bodily injuries (including death), property damage or violation of law, to the extent caused by any negligent act or omission or willful misconduct of Company or its employees, which occurs (a) during the collection or transportation of Association's Waste Materials, or (b) as a result of the disposal of Association's Waste Materials in a facility owned by Company or an Affiliate, provided that Company's indemnification obligations will not apply to occurrences involving Excluded Materials. Association agrees to indemnify, defend and save Company and its Affiliates harmless from and against any and all liability which Company and its Affiliates may suffer, incur or pay as a result of any bodily injuries (including death), property damage or violation of law to the extent caused by Association's breach of this Agreement or by any negligent act or omission or willful misconduct of Association or its employees, agents or contractors or Association's use, operation or possession of any equipment furnished by Company. Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance or breach of this Agreement.

11. RIGHT TO PROVIDE COMPETING OFFERS. If Association receives an offer from (or makes any offer to) a third party relating to such third party's provision to the Association of the same or similar Services to those provided hereunder, Association shall give Company prompt written notice of any such offer and a 15-day period to respond to such third party offer prior to Association agreeing to such third party offer.

12. DISPUTE RESOLUTION-ARBITRATION AGREEMENT AND CLASS ACTION WAIVER. BINDING ARBITRATION: Except for those claims expressly excluded below (EXCLUDED CLAIMS), Association, on behalf of itself and Customers, and Company agree that any and all existing or future controversy or claim between them arising out of or related to this Agreement or any prior agreements between the parties, whether based in contract, law or equity or alleging any other legal theory, or arising prior to, in connection with, or after the termination of this Agreement or any other agreements, shall be resolved by mandatory binding arbitration (see www.wm.com for details on arbitration procedures). **CLASS ACTION WAIVER:** Association, on behalf of itself and Customers, and Company agree that under no circumstances, whether in arbitration or otherwise, may Association bring any claim against Company, or allow any claim that Association may have against Company to be asserted, as part of a class action, on a consolidated or representative basis or otherwise aggregated with claims brought by, or on behalf of, any other entity or person, including other Associations of Company. **EXCLUDED CLAIMS:** The following are not subject to mandatory binding arbitration: (a) either party's claims against the other in connection with bodily injury or real property damage and for environmental indemnification; and (b) Company's claims against Association for collection or payment of Charges, damages (liquidated or otherwise) or any other amounts due or payable to Company by Association under this Agreement or any prior agreements between the parties, but Association and Company may mutually agree to arbitrate any Excluded Claims.

13. MISCELLANEOUS. (a) Except for the obligation to make payments hereunder for Services already performed, neither party shall be in default for its failure to perform or delay in performance caused by events or significant threats of events beyond its reasonable control, whether or not foreseeable, including, but not limited to, strikes, labor trouble, riots, imposition of laws or governmental orders, fires, acts of war or terrorism, acts of God, and the inability to obtain equipment, and the affected party shall be excused from performance during the occurrence of such events. (b) This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns. (c) The terms, conditions and disclosures set forth on www.wm.com relating to Billing/Billing Help, Charges, Arbitration Procedures, and for those Associations that sign up for electronic billing and payment, WM eZPay or Autopay, are incorporated by reference and made a part hereof (as such terms, conditions and disclosures may be changed or modified from time to time, effective from such change or modification). In addition to, and not in limitation of, the foregoing, the terms and provisions of this Agreement may be amended and modified as agreed to by the parties as provided in Section 6(a). Subject to the foregoing, this Agreement represents the entire agreement between the parties and supersedes any and all other agreements for the same Services at the same Association locations covered by this Agreement, whether written or oral, that may exist between the parties. (d) This Agreement shall be construed in accordance with the law of the state in which the Services are provided. (e) All written notification to Company required by this Agreement shall be effective upon receipt and delivered by Certified Mail, Return Receipt Requested, courier or by hand to Company's address on the first page of the Service Summary, provided that Company may provide written notice to Association of a different address for written notice to Company. (f) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be severed from and shall not affect the remainder of this Agreement; however, the parties shall amend this Agreement to give effect, to the maximum extent allowed, to the intent and meaning of the severed provision. (g) In the event Company successfully enforces its rights against Association hereunder, Association shall be required to pay Company's attorneys' fees and court costs. (h) Notwithstanding the termination of this Agreement, Sections 8, 9, 10, 12, 13, 14(d) and Association's obligation to make payments for all Charges and other amounts due or payable hereunder through the termination date shall survive the termination of this Agreement. (i) The term "Affiliate" means with respect to any specified party, any corporation, limited liability company, partnership or other legal entity, directly or indirectly, controlled by, controlling or under common control with such specified party, with "control" meaning, directly or indirectly, the power to direct or cause the direction of the management and policies of such legal entity, whether through the ownership of voting securities, by contract or otherwise. (j) "business day" means Monday through Friday, excluding bank holidays.

14. RECYCLING SERVICES. The following shall apply to fiber and non-fiber recyclables ("Recyclable Materials") and recycling services:

(a) (i) Single stream Recyclable Materials ("Single Stream") will consist of Association's entire volume of clean, dry, paper or cardboard without wax liners; clean, dry and empty aluminum food and beverage containers, ferrous (iron) or steel cans, aerosol cans, and rigid container plastics #1-7, including narrow neck containers and tubs. Any material not specifically set forth above, including but not limited to foam, film plastics, plastic bags, and tissue or paper that had been in contact with food, is unacceptable ("Unacceptable Materials"), provided that glass may be included in Single Stream with specific written approval of Company. Single Stream may not contain any Unacceptable Materials. (ii) Association shall provide source-separated wastepaper, cardboard, plastics and metals in accordance with the most current ISRI Scrap Specifications Circular and any amendments thereto or replacements thereof. (iii) All other Recyclable Materials will be delivered in accordance with industry standards or such specifications communicated to Association by Company from time-to-time. (iv) Company reserves the right, upon notice to Association, to discontinue acceptance of any category of Recyclable Materials as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials which are subject to this Agreement.

(b) Recyclable Materials may not contain Excluded Materials or other materials that are deleterious or capable of causing material damage to any part of Company's property, its personnel or the public or materially impair the strength or the durability of Company's structures or equipment. Company may reject in whole or in part, or may process, in its sole discretion, Recyclable Materials not meeting the specifications, and Association shall pay and reimburse Company for all costs, losses and expenses incurred with respect to such non-conforming Recyclable Materials including costs for handling, processing, transporting and/or disposing of such non-conforming Recyclable Materials which charges may include an amount for Company's operating or profit margin. Without limiting the foregoing, Company may assess and Association shall pay a contamination charge for additional handling, processing, transporting and/or disposing of Unacceptable Materials, Excluded Materials, and/or all or part of non-conforming loads. In the event costs of processing recyclables exceeds the commodity value, a recyclable material offset will be charged per ton.

(c) Where Company has agreed in writing to provide a market-based rebate to Association, the following shall apply. Association acknowledges that the market value for Recyclable Materials will fluctuate based upon various factors, and such materials may at times have no value or that the value may be negative. Company will establish the value of Recyclable Materials each month based upon such various factors, including but not limited to quantity, quality and location. For recycling services, Company shall pay or charge Association on or about the last day of each month for Recyclable Materials accepted during the preceding month, after deduction of any charges owed to Company by Association. Any invoice shall be payable upon receipt. Where recycling services are provided, charges may include separate fuel and environmental surcharges as set forth at www.wm.com.

(d) Notwithstanding anything to the contrary set forth above, the liquidated damages calculation set forth in Section 9 of this Agreement shall not apply to any Association breach of the Agreement pertaining to Services for Recyclable Materials, which have been determined by Company to have a positive value. If a breach occurs under such circumstances, the damages shall be determined by calculating actual damages rather than such liquidated damages.