

## 2019 SOLID WASTE COLLECTION SERVICES AGREEMENT

This Solid Waste Collection Services Agreement, dated as of \_\_\_\_\_, 20\_\_ (this "Agreement"), is entered into by and between \_\_\_\_\_, a Georgia \_\_\_\_\_ (herein, together with its successors and permitted assigns, "Company") and City of Johns Creek, a Georgia municipality ("City").

WHEREAS, Company and City (each, a "Party" and collectively, the "Parties") jointly desire to enter into an agreement respecting the collection of solid waste; and

WHEREAS, O.C.G.A. § 48-13-9 authorizes local governments to levy regulatory fees against solid waste collectors; and

WHEREAS, the Charter for City of Johns Creek (2006 Act 437) authorizes City to regulate the collection and disposal of garbage, rubbish, and refuse by others; and

WHEREAS, on November 15, 2006, the Mayor and Council for City passed and approved Ordinance No. O2006-11-02 regarding the regulation of solid waste collection services within the corporate limits of City; and

WHEREAS, on November 8, 2010, the Mayor and Council for City passed and approved Ordinance No. O2010 -09-16 regarding the regulation of solid waste collection services within the corporate limits of City (the "Solid Waste Ordinance").

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

### **ARTICLE I Definitions**

For the purposes of this Agreement, whenever inconsistent in the context, words used in the present tense include the future tense, words in the plural include the singular, words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. Capitalized words not defined in this Agreement shall have the meaning provided in the Solid Waste Ordinance. Words not defined in this Agreement or in the Solid Waste Ordinance shall be given their common and ordinary meaning.

### **ARTICLE II Grant of Non-Exclusive Contract**

#### **Section 2.1 Non-Exclusive Contract.**

City hereby grants to Company a non-exclusive contract pursuant to the terms herein to use the public streets, alleys, roads and thoroughfares within City for the purpose of operating and engaging in the business of collecting and disposing of Residential and Commercial Refuse and Waste; including, but not limited to, contracting with Customers and providing service

pursuant to such contract, placing and servicing containers, operating trucks, vehicles and trailers, and such other operations and activity as are customary and/or incidental to such business and service. Pursuant to the grant of such non-exclusive contract, the Company agrees to perform the additional reporting obligations and minimal levels of service set forth in Exhibit "A," which is attached hereto and incorporated herein by this reference, as well as perform pursuant to the provisions of the Solid Waste Ordinance.

**Section 2.2 Management of Efforts.**

Each of the Parties shall appoint a representative to manage and oversee the administration of this Agreement.

**Section 2.3 Ancillary Services.**

(a) **Responsibility.** All Customer care, billing, and collections activities for Company's customers with service addresses in the corporate limits of City will be performed by Company or its designee, and will not be the responsibility of City.

(b) **Billing Questions or Disputes.** Any Customer care or collection calls received by City or its agents pertaining to solid waste collection services provided by Company may be directed to Company's designated call center for resolution, and shall not be the responsibility of City.

**Section 2.4 Performance of Services.**

All Parties expressly acknowledge and agree that (a) City is not acting as the agent for Company in connection with the performance of any services provided or contemplated by this Agreement; (b) all persons employed or contracted with by City are its employees or independent contractors and not the employees or independent contractors of Company in any respect due solely to their employment or engagement by City; (c) Company is not acting as the agent for City in connection with the performance of any activities hereunder; (d) all persons employed or contracted with by Company are its employees and contractors and not the employees or contractors of City in any respect due solely to their employment by Company; and (e) City shall not have any duty, obligation, responsibility or liability hereunder to any prospective customer or customer of Company in connection with any solid waste collection service or other service provided by Company for such customer. All services performed hereunder and undertaken by Company in connection with the provision of solid waste collection services shall be performed in accordance with any and all Federal, State and local laws and regulations.

## **ARTICLE III**

### **Term**

The term of this Agreement shall be for a period of not more than twelve (12) months, commencing on date of execution, and terminating on December 31, 2019. The Company shall begin performance under this Agreement upon its execution.

## **ARTICLE IV**

### **Scope and Nature of Operation**

#### **Section 4.1 Residential and Commercial Refuse and Waste.**

The Company may collect and deliver for disposal all Residential and Commercial Refuse and Waste accumulated within the corporate limits of the City by the Company's Customers. The Company shall furnish the personnel and equipment to collect refuse and provide the services described herein and as contracted for with its Customers in an efficient and businesslike manner.

#### **Section 4.2 Service Provided.**

Company shall provide the container, bin and other collection service for the collection of Residential and Commercial Refuse and Waste according to the individual Customer agreements and applicable Federal, State and local regulations and shall make provision for the special collection of such refuse and waste upon request. The Company shall cause or require its equipment, containers and bins to be kept and maintained in such a manner to not cause or create a threat to the public health and shall keep the same in a good state of repair. Additionally, the Company shall meet or exceed the Level of Service provided in Exhibit "A."

#### **Section 4.3 Hours of Operation.**

Except as otherwise provided herein, collection shall not start before 7:00 a.m. or continue after 7:00 p.m. at any location; provided that collections shall be (i) made in a manner and location that does not cause or result in unreasonably loud noise or the disturbance of persons occupying the premises or neighboring property. If the City receives complaints from citizens, hours of operation will be subject to modification as mutually agreed between the Company and the City. Subject to City approval, other exceptions to collection hours shall be effected only upon the mutual agreement of the Customer and only when such exception will not result in the disturbance of occupants of the property served or of neighboring properties, or when the Company reasonably determines an exception necessary due to unusual circumstances requiring emergency work to safeguard the immediate health, safety and welfare of the public. Subject to the ordinances and regulations adopted by the Council and the terms set forth in this Agreement, the frequency of collection shall be determined by each customer agreement.

**ARTICLE V**  
**Covered Vehicles**

Company agrees that all vehicles used for the collection and transportation of refuse shall be covered at all times while loaded and in transit to prevent the blowing or scattering of refuse onto the public streets or properties adjacent thereto, and such vehicles shall be clearly marked with the Company's name in letters not less than Five (5) inches in height.

**ARTICLE VI**  
**Containers**

**Section 6.1** Company agrees that any containers rented or leased to any Customer for refuse storage and collection purposes shall be:

- a. Constructed and maintained according to good industry practice;
- b. Equipped with stable covers to prevent blowing or scattering of refuse while being transported for disposal of their contents;
- c. Except those being used exclusively for the purpose of collecting and storing rubble, building and scrap construction materials, equipped with covers suitable to prevent blowing or scattering refuse and access to the container by animals while the container is at the site designated by Customer;
- d. Periodically cleaned, maintained, serviced and kept in a reasonable good state of repair, to prevent the unreasonable accumulation of refuse residues, to avoid excessive odor and harborage for rodents and flies resulting from excessive residues remaining after collection of containers; and to prevent leakage of its contents;
- e. Clearly marked with the Company's name and telephone number in letters not less than three (3) inches in height;

**Section 6.2** Company agrees that containers shall not be located or placed on public rights of way and shall be located so as to not interfere, block, obstruct or impede the normal use of any sidewalk, street, alley, driveway or fire lane, or to block, obstruct or impede sight distance at street, road or alley intersections.

**ARTICLE VII**  
**Disposal of Refuse**

The company shall deliver all Residential and Commercial Refuse and Waste collected by it from its customers within the City, except for materials which the Company may select for recovery and recycling, to a disposal facility that is permitted by the EPD to accept such refuse and waste. Rules and regulations governing hours of operation and disposal practices at the disposal facility will be observed and followed by the Company while engaged in the disposal of refuse pursuant to the City's Solid Waste Ordinance.

**ARTICLE VIII**  
**Fees and Reporting**

**Section 8.1** Regulatory Fee.

No fees are due as a part of the registration.

**Section 8.2** Reporting.

Company agrees to provide the City statistics and reports regarding the amount and type of refuse and waste collected and disposed, the amount of refuse and waste recycled, as well as any and all other relevant information necessary for the City to comply with state reporting requirements, which shall include, without limitation, the information and data enumerated in Exhibit "A." In such reports, Company shall also provide the routes of its vehicles and the type of vehicle or collection facility being used to transport the refuse and waste. The foregoing reports and statistics shall be provided on a quarterly basis, and shall be submitted by the thirtieth (30<sup>th</sup>) day following the end of the quarter, such that the reports and statistics for: the first quarter of the calendar year shall be due April 30<sup>th</sup>; the second quarter shall be due July 30<sup>th</sup>; the third quarter shall be due October 30<sup>th</sup>, and the fourth quarter shall be due January 30<sup>th</sup> of the following year.

**ARTICLE IX**  
**Insurance**

**Section 9.1** Minimum Coverage Requirements.

The Company shall obtain and continuously maintain throughout the term of this Agreement insurance of the kind and in the minimal amounts specified as follows:

9.1.1 Statutory Worker's Compensation Insurance in the minimum amount required by applicable law for all employees and other persons as may be required by Georgia law and Employers Liability Insurance in the minimum amount of One Hundred Thousand and No/100 Dollars (\$100,000).

9.1.2 Comprehensive General Liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000) per occurrence and (\$2,000,000) in the aggregate. The policy shall be applicable to all premises and all operations of the Contractor. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. Such insurance shall be endorsed to name the City, and its elected officials, officers, employees and agents as additional insured parties.

9.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate with respect to each of the Company's owned,

hired and non-owned vehicles assigned to or used in performance of the Agreement. Such insurance coverage must extend to all agents and subcontractors of Company. Such coverage must include all automotive equipment used on site in the performance of the Agreement, and such coverage shall include non-ownership and hired cars (vehicles and equipment) coverage. Proof of such insurance shall be maintained in all automotive equipment and vehicles insured in accordance with the foregoing provisions.

**Section 9.2 Requirements of Insurance.**

9.2.1 Insurance shall be procured and maintained with insurers with an A- or better rating as determined by Best's Key Rating Guide. All insurance shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Company.

9.2.2 By naming the City as an additional insured on Company's insurance policy, the City is only securing protection from liabilities arising out of Company's negligence as per the applicable policy. The only insurance policies where the City shall be listed as an additional insured shall be the Comprehensive General Liability and Comprehensive Automobile Liability policies.

9.2.3 No policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations.

9.2.4 Every policy of insurance shall provide that the City will receive notice no less than thirty (30) calendar days prior to any cancellation, termination, or material change in such policy.

**Section 9.3 Certificate of Insurance.**

The insurance policy, or policies, obtained by the Company in compliance with this Article 9 shall be subject to the approval of the City Manager, which cannot be unreasonably withheld, and the certificate of insurance for the insurance policy shall be filed and maintained with the City during the term of this Agreement with a copy of the endorsement required under Section 9.4 attached or made a part thereof. Insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Article 9 shall be indicated on each certificate of insurance.

**Section 9.4 Endorsements.**

All insurance policies maintained pursuant to this Agreement shall contain the following conditions by endorsement:

9.4.1 Additional Insured. The City shall be an additional insured and the term "owner" and "City" shall include the governing authority and all boards, divisions, departments and offices of the City and the individual members, officers, officials, employees and agents thereof in their official capacities and/or while acting on behalf of the City.

9.4.2 Other Insurance Clause. The policy clause “Other Insurance” shall not apply to the City when the City is an insured on the policy.

9.4.3 No Recourse. Companies issuing the insurance policies shall not have any recourse against the City for payment of any premium or assessment.

**Section 9.5 Increase Requirements.**

The City may choose to amend this Agreement to make reasonable adjustments to the insurance coverage and their limits when deemed necessary and prudent based upon changes in statutory law, court decisions, or the claims history of the industry.

**ARTICLE X  
Indemnification and Hold Harmless**

The Company agrees to indemnify, defend and save harmless the City, its agents, officers and employees, against and from any and all claims by or on behalf of any person, firm, corporation or other entity arising from any negligent act or omission or willful misconduct of the Company, or any of its agents, servants, employees or contractors, and from and against all costs, counsel fees, expenses and liabilities incurred in or about any such claim or proceeding brought thereon. Promptly after receipt from any third party by the City of a written notice of any demand, claim or circumstance that, immediately or with the lapse of time, would give rise to a claim or the commencement (or threatened commencement) of any action, proceeding or investigation (an “Asserted Claim”) that may result in losses for which indemnification may be sought hereunder, the City shall give written notice thereof (the “Claims Notice”) to the Company provided, however, that a failure to give such notice shall not prejudice the City’s right to indemnification hereunder except to the extent that the Company is actually and materially prejudiced thereby. The Claims Notice shall describe the Asserted Claim in reasonable detail, and shall indicate the amount (estimated, if necessary) of the losses that have been or may be suffered by the City when such information is available. The Company may elect to compromise or defend, at its own expense and by its own counsel, any Asserted Claim. If the Company elects to compromise or defend such Asserted Claim, it shall, within twenty (20) business days following its receipt of the Claims Notice (or sooner, if the nature of the Asserted Claim so required) notify the City of its intent to do so, and the City shall cooperate, at the expense of the Company, in the compromise of, or defense against, such Asserted Claim. If the Company elects not to compromise or defend the Asserted Claim, fails to notify the City of its election as herein provided or contests its obligation to provide indemnification under this Agreement, the City may pay, compromise or defend such Asserted claim with all reasonable costs and expenses borne by the Company. Notwithstanding the foregoing, neither the Company nor the City may settle or compromise any claim without the consent of the other party; provided, however, that such consent to settlement or compromise shall not be unreasonably withheld. In any event, the City and the Company may participate at their own expense, in the defense of such Asserted Claim. If the Company chooses to defend any Asserted Claim, the City shall make available to the Company any books, records or other documents within its control that are necessary or appropriate for such defense.

**ARTICLE XI**  
**Forfeiture and Termination of Contract**

**Section 11.1 Material Breach.**

In addition to all other rights and powers retained by the City, including the right to criminally charge and prosecute Company for any violations of the Solid Waste Ordinance, the City reserves the right to declare this Agreement forfeited and to terminate this Agreement and all rights and privileges of the Company hereunder and pursuant to the Solid Waste Ordinance. A material breach by the Company shall include, but shall not be limited to, the following:

11.1.1 Fees and Reporting. Failure to pay the fees or submit the statistics and reports set out in Article 8 of this Agreement, including, without limitation, the failure to provide routing and customer addressing.

11.1.2 Telephone Listings. Failure to keep and maintain a telephone listing and office or answering service that is available by phone without long distance charge during regular business hours for service to the public, and which telephone or office shall, at minimum, provide and maintain the following services:

a. Coordinate and provide information concerning deposits, payments and accounts to Customers and prospective Customers;

b. Respond to Customer and prospective Customer questions and issues about billings, accounts, deposits and services;

c. Coordination with the City with respect to private sector and public works projects and issues related to or affecting the Company's operation; and

d. Immediate response, upon request, to police, fire and other emergency situations in which the public health and safety requires action with respect to or assistance regarding Company's property.

11.1.3 Failure to Provide Service. Failure to materially provide the services provided for in this Agreement.

11.1.4 Misrepresentation. Material misrepresentation of fact in the application for or negotiation of this Agreement or in the statistics or records submitted pursuant to Article 8 hereof.

11.1.5 Conviction. Conviction of any director, officer, employee, or agent of the Company of the offense of bribery or fraud connected with or resulting from this Agreement, or for any violation of the Solid Waste Ordinance.



**Section 11.2 Operation Information.**

Material misrepresentation of fact knowingly made to the City with respect to or regarding the Company's operations, management, revenues, services or reports required pursuant to this Agreement.

**Section 11.3 Economic Hardship.**

Company shall not be excused by mere economic hardship or by misfeasance or malfeasance of its directors, officers or employees.

**Section 11.4 Forfeiture and Proceedings.**

Any unwarranted and intentional neglect, failure or refusal of the Company to comply with any material provision of this Agreement or the Solid Waste Ordinance within thirty (30) days after written notice from the City setting forth the specific provision and noncompliance, said notice to be mailed to Company at its principal place of business by certified mail, return receipt requested, shall be deemed a breach of this Agreement, and the City, following notice to the Company, may declare this Agreement forfeited and exclude the Company from further use of the streets of the City under this Agreement or the Solid Waste Ordinance, and the Company shall thereupon surrender all rights in and under the Solid Waste Ordinance and Contract.

11.4.1 Proceedings. In order for the City to declare forfeiture pursuant to Section 11.1, 11.4, or 11.4.3, the City shall make a written demand that the Company comply with any such provision, term, rule, order or determination under or pursuant to this Agreement. If such violation by the company continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Agreement will be deemed to be terminated. Company may, within the said 30-day period, appeal said demand and determination to the City Council by filing such request for appeal with the City's Solid Waste Manager in writing. Upon receipt of such request for appeal, the Solid Waste Manager shall set a date for hearing with the Council or designated hearing officer, at which hearing the Council or designated hearing officer shall take under consideration the issue of termination of this Agreement. The City shall cause to be served upon the Company, at least twenty (20) days prior to the date of such a hearing, a written notice of intent to request such termination and the time and place of the meeting. Notice shall be given of the meeting and issue which the Council or its designated hearing officer is to consider.

11.4.2 Hearing. The Council or its designated hearing officer shall hear and consider the issue, hear any person interested therein, and shall determine whether or not any violation by the Company has occurred.

11.4.3 Forfeiture. If the Council or designated hearing officer shall determine that the violation by the Company was the fault of the Company and within its control, the Council or its designated hearing officer may declare the contract forfeited and terminated, or the Council or

hearing officer may grant to Company a period of time for compliance. The decision of the Council or hearing officer shall be final and the Company shall have the right to appeal same within thirty days (30) of said decision by Writ of Certiorari to the Superior Court of Fulton County.

## **ARTICLE XII Non-Assignment**

The Company shall not transfer, assign, sell or convey any rights granted under this Agreement without the prior approval of the City; provided that this section shall not apply to vehicles, replacements, maintenance, upgrades or modifications of equipment, machinery, containers and buildings by Company for the purpose of maintaining and continuing its operation within the City; and provided further that Company may, in its sole discretion and upon written notice to the City, transfer, assign sell or convey this Agreement to a wholly owned subsidiary of the Company or to an affiliated entity that is under common control with Company (i.e. has a common parent entity).

## **ARTICLE XIII Foreclosure**

Upon the foreclosure or judicial sale of all or a substantial part of the assets and property of the Company used for and dedicated to providing service pursuant to this Agreement, the Company shall notify the City of such fact, and such notification shall be treated as a notification that a change in control of the Company has taken place and the provision of this Agreement governing the consent of the City to such change in control of the Company shall apply. Upon the foreclosure or judicial sale, or the leasing of all or a substantial part of the property and assets of the Company dedicated to and used for the purposes of providing service pursuant to this Agreement, without the prior approval of the City, the City may, upon hearing and notice, terminate any Contract resulting from this Agreement.

## **ARTICLE XIV Receivership and Bankruptcy**

**Section 14.1 Cancellation Option.** After one hundred and twenty (120) days have elapsed from the appointment of a receiver or trustee to take over and conduct the business of the Company, whether in receivership, reorganization, bankruptcy, other action or proceeding, whether voluntary or involuntary, the City shall have the right to cancel this Agreement unless:

14.1.1 The receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days;

14.1.2 Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Agreement and remedied all defaults hereunder; or

14.1.3 Such receiver or trustee, within one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction, whereby the receiver or trustee assumes and agrees to be bound by each and every provision of this Agreement.

**ARTICLE XV**  
**Retention of Police Powers**

The City retains and reserves all of its police powers and the rights, privileges, and immunities that it now has under the law to regulate, patrol and police the streets and public ways within the City, and the execution of this Agreement shall in no way interfere with the improvements to, or maintenance of, any street, alley or public way, and the rights of the City to use said streets, alleys and public ways.

**ARTICLE XVI**  
**Amendments to Solid Waste Ordinance and/or this Agreement**

The City reserves the right and power, pursuant to its police power, after due notice to Company, to modify, amend, alter, change or eliminate any rules, regulations, fees, charges and rates of the City, and to impose such additional conditions, that are not inconsistent with the Solid Waste Ordinance, upon the Company and all persons, firms or entities of the same class as the Company, as may be reasonably necessary in the discretion of the City Council to preserve and protect the public, health, safety and welfare and/or insure adequate service to the public, through the City's unilateral amendment of this Agreement and/or the Solid Waste Ordinance. Sixty (60) days notice shall constitute due notice pursuant to this Article, though less notice may be adequate depending on the circumstances.

**ARTICLE XVII**  
**Taxes**

The Company shall promptly pay all lawful ad valorem taxes, levies and assessments, if any, that are imposed upon the Company. Absent an administrative or judicial challenge, or appeal, the failure to pay any such tax, levy or assessment shall be a breach of this Agreement.

**ARTICLE XVIII**  
**Public Necessity**

The Parties acknowledge that the public welfare, convenience and necessity require the service which is to be furnished by the Company.

**ARTICLE XIX**  
**Severability**

If any Article, section, paragraph, subdivision, clause, part or provision hereof shall be adjudged invalid or unconstitutional the same shall not affect the validity hereof as a whole or any part or provision other than the part or parts held invalid or unconstitutional.

**ARTICLE XX**  
**Captions and Headings**

The use of captions or headings for the various articles and sections of this Agreement are for convenience of the Parties only and do not reflect the intent of the Parties. The rule of interpretation to solve ambiguities in a contract against the Party drafting such contract shall not apply to this Agreement.

**ARTICLE XXI**  
**No Suspension of Laws**

All provisions of the ordinances of the City as now existing or as may be amended from time to time, and all applicable provisions of the statutes of the State of Georgia shall be a part of this Agreement as fully as if the same had been expressly stated herein, and said City retains and may exercise all of the governmental and police powers and all other rights and powers not directly inconsistent with the terms, conditions and provisions of the Solid Waste Ordinance.

**ARTICLE XXII**  
**Peaceful Employment**

Subject to Article XVI hereof, from and after the effective date of this Agreement, the City and the Company shall be and are hereby authorized and entitled to act in reliance upon the terms, conditions, and provisions of this Agreement and the Solid Waste Ordinance and, subject thereto, the Company shall collect rates for service, operate and conduct its business and work within the City, and enjoy the benefits and privileges of this Agreement during the term hereof.

**ARTICLE XXIII**  
**Miscellaneous**

**Section 23.1 Modifications/Waiver.** Subject to Article XVI hereof, which in the event of conflict shall supersede this Section 23.1, neither this Agreement nor any provision hereof may be waived, modified, amended, discharged, or terminated, except by an instrument agreed to and signed by both Parties, and then only to the extent set forth in such.

**Section 23.2 Notice.** Any notice given under this Agreement shall be in writing and shall be hand delivered, sent by registered or certified mail, or delivered by a reputable overnight courier such as Federal Express or United Parcel Service, to the Parties as follows:

Company:

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

City:

City of Johns Creek  
10700 Abbotts Bridge Road, Suite 190  
Johns Creek, GA 30097  
Attn: City Manager

**Section 23.3 Governing Law.** This Agreement and the rights and duties of the Parties arising out of this Agreement shall be governed by, construed under, and enforced in accordance with the laws of the State of Georgia, without regard to its conflicts of law principles.

**Section 23.4 Third Parties.** The provisions of this Agreement shall not impart rights enforceable by any person or entity not a Party to or not a successor or permitted assignee of a Party bound by this Agreement.

**Section 23.5 No Partnership.** Nothing in this Agreement is intended to create, or shall be construed as creating or constituting, a partnership, joint venture, or association between the Parties, or to impose a fiduciary, trust or partnership duty, obligation, or liability on or with regard to the Parties.

**Section 23.6 Entire Agreement.** This Agreement and the provisions of the Solid Waste Ordinance, which is expressly incorporated herein by reference, constitute and contain the entire understanding of the Parties with respect to its subject matter. This Agreement supersedes all prior and contemporaneous negotiations, understandings, letters of intent, and agreements (whether oral or written) between the Parties relating to its subject matter. In the event of a conflict between the terms of this Agreement and the provisions of the Solid Waste Ordinance, the provisions of the Solid Waste Ordinance shall control.

**Section 23.7 Survival.** All indemnity obligations and all representations and warranties provided herein shall survive the termination of this Agreement. The Parties' obligations provided in this Agreement shall remain in effect for purposes of complying with this Section.

**Section 23.8 Counterparts .** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**Section 23.9 Time of Essence.** Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have signed and thereby executed this Agreement as of the date and year first written above.

**COMPANY:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF JOHNS CREEK**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## **Exhibit A**

### **Rules for the Collection of Solid Waste, Recyclable Materials, Yard Trimmings, and Bulky Trash**

1. Company shall provide to the Public Works Director the routes each of their collection trucks use while collecting or transporting solid waste, recyclable materials, yard trimmings, and bulky trash in the City.
2. Company shall provide to the Public Works Director each customer's address.
3. Company shall provide to the Public Works Director the day of the week and the route they use to perform collection services for each of their customers.
4. Company shall provide to the Public Works Director the level of service provided for each customer including, the frequency of the service and the container size and type.
5. Company shall provide to the Public Works Director the fee(s) they charge for basic residential service to include once a week pick up of garbage, once a week collection of recycling, once a week yard trimmings, and once a Month bulky trash service.
6. Company shall provide to the Public Works Director the fee(s) they charge for basic commercial service to include once a week pick up of garbage, using 6 cubic yard dumpster, and per haul fees for a 20 cubic yard roll off container.
7. Company shall provide to the Public Works Director a listing of all motorized equipment they use to perform their collection services.
8. Company shall provide on a quarterly basis, statistics and reports of the amount (in tons) by type of refuse and waste collected and disposed, the amount of material collected for recycling, as well as any and all other relevant information necessary for the City to comply with state reporting requirements. Reporting dates are as follows:



1. First Quarter: April 30
2. Second Quarter: July 30<sup>th</sup>
3. Third Quarter: October 30<sup>th</sup>
4. Fourth Quarter: January 30<sup>th</sup>

8. Company shall notify the Public Works Director of any customer changes to include dropping a customer or adding a new customer. Such notification shall be made at the time of each quarterly report submitted to the Public Works Director. Addressing for new customers and dropped customers shall be provided with the aforementioned notification to the Public Works Director. **If there is no change in customers that are dropped or added, the Company agrees to note such information in each quarterly report.**