

AMENDED AND RESTATED
WASTE DISPOSAL
AND
LANDFILL OPERATION AGREEMENT
BETWEEN
SOUTH HADLEY LANDFILL, LLC
AND
THE TOWN OF SOUTH HADLEY, MASSACHUSETTS

June __, 2009

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This **AMENDED AND RESTATED WASTE DISPOSAL AND LANDFILL OPERATION AGREEMENT** (the "Agreement") is made and entered into as of the ___ day of June, 2009, by and between **SOUTH HADLEY LANDFILL, LLC**, a limited liability company organized under the laws of the state of Delaware ("SHL") and **THE TOWN OF SOUTH HADLEY, MASSACHUSETTS**, a body politic and corporate existing as a political subdivision of the Commonwealth of Massachusetts, acting by and through its Selectboard (the "Town").

PREAMBLE

WHEREAS, the Town owns a municipal sanitary landfill located at 12 Industrial Drive, South Hadley, Massachusetts, as depicted on the plan attached hereto as Exhibit A and incorporated herein (the "Landfill")(for purposes of this Agreement, the Landfill shall include the Existing Landfill, and the areas to be used for the Expansions, as defined below).

WHEREAS, the Town previously entered into an agreement with Biosafe, Inc., a predecessor to SHL, dated August 22, 1995, which agreement has been amended five times by the Town and various successor entities to Biosafe, Inc., comprising a first amendment, dated February 20, 2002, a second amendment, dated May 11, 2002, a third amendment, dated December 3, 2002, a fourth amendment, dated May 14, 2005, and a fifth amendment, dated December 4, 2007 (collectively, that agreement, as so amended, is referred to herein as the "Prior Agreement").

WHEREAS, the permitted capacity of the Landfill is nearing completion and the parties are exploring the feasibility of further expanding the Landfill for use by the Town and SHL.

WHEREAS, SHL has proposed to expand the Landfill in two phases, the first phase constituting a vertical expansion above the existing Cells, and the second phase constituting a horizontal and vertical expansion onto adjacent land owned by the Town. The approximate areas intended for these expansions are shown on the plan attached hereto as Exhibit A and incorporated herein (collectively, the "Expansions"). The Expansions consist of two components, referred to and further defined in this Agreement as the Phase 1 Expansion and the Phase 2 Expansion.

WHEREAS, the Town desires to secure a long term landfill disposal option for its municipal wastes and wastewater treatment sludge through the further expansion of the Landfill, and SHL desires to develop and operate expansions of the Landfill, all pursuant to the terms and conditions set forth in this Agreement.

WHEREAS, SHL and the Town have decided to further amend the terms of the Prior Agreement and have elected to amend and restate the Prior Agreement in its entirety to effect such amendments, as set forth herein.

NOW, THEREFORE, in consideration of the promises, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do agree as follows:

ARTICLE 1 - DEFINITIONS

For purposes of this Agreement, the following words and phrases shall have the meanings set forth below:

"Affiliate" shall mean any entity or person directly or indirectly owning or controlling an interest in SHL, and any entity or person that is directly or indirectly owned or controlled by such entity or person.

“**Agreement**” shall mean this Amended and Restated Waste Disposal and Landfill Operation Agreement.

“**All Applicable Laws**” or “**Applicable Laws**” shall mean all laws, regulations, bylaws, ordinances, governmental orders, and permit conditions of any Governmental Authority that affect the development, permitting, management, operation, Closure and Post-Closure Activities at the Landfill, and other activities conducted pursuant to this Agreement.

“**Authorization to Operate**” or “**ATO**” shall mean the authorization issued by MassDEP as part of a landfill solid waste permit allowing commencement of operation of a particular landfill cell, pursuant to 310 CMR 19.042.

“**Cell 2B**” shall mean the landfill cell in the Existing Landfill that is active as of the Effective Date of this Agreement.

“**Clean Soil**” shall mean any soil that is available for unrestricted use as fill in Massachusetts. Clean Soil shall not include any Contaminated Soil, as defined in MassDEP’s Policy on Reuse & Disposal of Contaminated Soil at Massachusetts Landfills, #COMM-97-001, or any successor policy, whether or not such Contaminated Soil requires specific MassDEP approval for landfill use.

“**Closure**” shall mean all activities required by 310 CMR 19.000 which address the cessation of use of a municipal solid waste landfill, and all costs associated with such activities. Closure shall not include any activities within the definition of Post-Closure Activities.

“**Closure Approval**” shall mean a written notification, issued by MassDEP after Closure of the Landfill has been completed, stating that Closure of the Landfill has been completed in accordance with the Landfill closure plan and permit conditions and in compliance with MassDEP regulations.

“**CPI**” shall mean the U.S. Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers, Springfield/Hartford Metropolitan Area, All Items (1982-84=100), or any similar index if this one is replaced or no longer published.

“**Effective Date**” shall mean the date stated in Section 2.3.

“**Escrow Agent**” shall mean an institutional entity that is chartered as a national bank by the Office of the Comptroller of the Currency and that is mutually agreeable to the Town and SHL for purposes of acting as the Escrow Agent under the Escrow Agreement.

“**Escrow Agreement**” shall mean an agreement among the Town, SHL and a neutral escrow agent similar in form to the agreement attached hereto as Exhibit B and incorporated herein.

“**Event of Default**” is defined in Section 7.2.

“**Existing Landfill**” shall mean all portions of the Landfill that contain waste as of the Effective Date of this Agreement (meaning the Unlined Landfill, and Cells 1, 2A and 2B).

“**Expansions**” is defined in the Preamble.

“**Financial Assurance Mechanism**” or “**FAM**” shall mean a financial assurance mechanism used to assure financial capability for Closure and Post Closure Activities, as described in 310 CMR 19.051(12).

“Greenhouse Gas Credits” shall mean all greenhouse gas credits, carbon credits and other similar credits that can be received for the control of gases emitted by the Landfill, such as emission cap and trade allowances issued under the Regional Greenhouse Gas Initiative or the rules of any of its member states, and any emission credits authorized by the Global Warming Solutions Act for the reduction of greenhouse gases.

“Governmental Authority” shall mean any and all agencies, authorities, boards, bodies, commissions, courts, instrumentalities, legislatures, and offices of any municipal, local, state or federal governmental unit or subdivision.

“Host Fee” is defined in Section 5.1.

“Landfill” is defined in the Preamble.

“Landfill Gas to Energy Credits” shall mean all renewable energy credits, fuel production credits and other similar credits that may be available for the creation of a fuel or the production of alternative energy.

“MassDEP” shall mean the Massachusetts Department of Environmental Protection.

“MSE Berm” shall mean a mechanically stabilized earthen berm.

“MSE Berm FAM” shall mean any financial assurance mechanism required to be maintained by MassDEP to assure financial capability for the maintenance and repair of the MSE Berm.

“Permits” shall mean all governmental permits, approvals, licenses and authorizations required for a particular activity by All Applicable Laws, including by way of example and not of limitation solid waste site assignments and permitting (G.L. c. 111, § 150A), and review under the Massachusetts Environmental Policy Act (G.L. c. 30, §§ 61-62H).

“Phase 1 Expansion” shall mean the vertical expansion of the Landfill in an area situated entirely above the Existing Landfill to an elevation of up to 405 feet above MSL, as conceptually shown on the plan attached hereto as Exhibit A. The Phase 1 Expansion shall not extend horizontally beyond the Proposed Facility Boundary line within the Existing Landfill, as shown on Exhibit A, and shall be no higher than 405 feet above MSL.

“Phase 2 Expansion” shall mean the horizontal and vertical expansion of the Landfill to an elevation of up to 405 feet above MSL, as conceptually shown on the plan attached hereto as Exhibit A. The Phase 2 Expansion shall not extend horizontally beyond the Proposed Facility Boundary line as shown on Exhibit A and shall be no higher than 405 feet above MSL.

“Post-Closure Activities” shall mean all activities required by 310 CMR 19.000, as those regulations may be amended or modified from time to time, which address the maintenance, care and monitoring of a municipal solid waste landfill following its closure.

“Post-Closure Escrow” shall mean that escrow fund created pursuant to Section 5.2 of this Agreement, created for the benefit of the Town and SHL and held by a neutral escrow agent acceptable to both parties for the sole purpose of holding and disbursing monies to be spent in the conduct of Post Closure Activities (excluding activities conducted by SHL that are related to the MSE Berm).

“**Post-Closure Fee**” shall mean the fee required to be paid by SHL pursuant to Section 5.2 of this Agreement for purposes of funding the Post-Closure Activities.

“**Prior Agreement**” is defined in the Preamble.

“**Prohibited Wastes**” shall mean wastes that are prohibited from disposal at the Landfill by All Applicable Laws. Such wastes shall include, without limitation, hazardous wastes regulated under G.L. c. 21C, radioactive wastes, liquid wastes, pathological and biological wastes, infectious wastes, explosives, asbestos in quantities prohibited from solid waste landfills, wastes restricted from landfilling pursuant to 310 CMR 19.017, wastes containing regulated quantities of polychlorinated biphenyls, oil based paints, petroleum wastes (except for soils containing quantities of petroleum that are authorized by All Applicable Laws for solid waste landfill disposal), gasoline, kerosene, turpentine, and other similar hydrocarbon based substances.

“**Revenue Generating Materials**” shall mean all solid wastes or other materials for which SHL or any Affiliate of SHL charges a fee for disposal in or reuse at the Landfill, and which are received by SHL at the Landfill gate for such disposal or reuse, including without limitation all materials to be beneficially reused as landfill cover or otherwise, and any coal ash, but excluding (i) clean clay, (ii) Clean Soil, (iii) clean sand, (iv) materials purchased by SHL for construction, cover, or closure purposes, and (v) solid wastes received from the Town for which SHL receives no tip fee.

“**SHL**” shall mean South Hadley Landfill, LLC, a Delaware limited liability company.

“**Term**” is defined in Section 2.3.

“**Town**” shall mean the Town of South Hadley, Massachusetts, a body politic and corporate existing as a political subdivision of the Commonwealth of Massachusetts.

“**Uncontrollable Circumstance**” shall mean any act, event or condition that is beyond the reasonable control of, and is not the result of the willful misconduct or negligent action or omission, or the failure to exercise all reasonable diligence of a party claiming Uncontrollable Circumstance, provided that such act, event or condition materially and adversely interferes with the performance of that party’s obligations in this Agreement. Provided they meet the above preconditions, such acts, events or conditions may include but shall not be limited to the following:

(i) An act of God, epidemic, landslide, lightning, earthquake, fire, explosion, severe storm, flood or similar occurrence, an act of the public enemy, war, blockade, insurrection, riot, civil disturbance or similar occurrence;

(ii) The order and/or judgment of any federal, state or local court, administrative agency or governmental officer or body;

(iii) Suspension, termination, interruption or failure of renewal of any permit, license, consent, authorization or approval required or necessary for the operation of the Landfill;

(iv) Adoption, promulgation, modification of or change in interpretation of federal, state or local rules or laws, regulations or ordinances after the Effective Date, but not including (a) any standards or regulations adopted by the Occupational Safety and Health Administration, (b) any federal or state laws or regulations pertaining to the management or disposal of solid waste (including without limitation 310 CMR 16.00 and 19.000), except to the extent such change in law affects SHL’s obligations hereunder

with respect to Cell 2B through December 31, 2010, or (c) any laws or regulations pertaining to the assessment or payment of taxes; or

(v) The institution of a legal or administrative action or similar proceeding by a Governmental Authority, including without limitation challenges to the consideration or issuance of any Permit that materially delays or prevents SHL in the development or operation of the Landfill, provided that such action or proceeding does not arise from the negligence of SHL or the non-compliance of SHL with any Applicable Laws; and the institution of legal or administrative action or similar proceedings by any third party contesting, appealing or otherwise disputing the issuance or maintenance of any Permits relating to the siting, development or operation of the Landfill that materially delays or prevents SHL in the development or operation of the Landfill, provided that such action or proceeding does not arise from the negligence of SHL, or the noncompliance of SHL with any Applicable Laws; or

(vi) The failure of any federal, state or local agencies or public or private utilities to provide and maintain and assure the maintenance of all existing utilities service, sewerage, and water lines to the Landfill in accordance with site plans and required by SHL for the construction, maintenance and operation of the Landfill.

Notwithstanding the foregoing, in no event will any of the following be considered an Uncontrollable Circumstance: (a) prices for construction, transportation, services, and waste disposal; (b) changes in interest or inflation rates; (c) changes in the costs of labor, materials, equipment, commodities, insurance and other commodities necessary for performance; (d) changes in the financial condition of SHL, any Affiliate, or any subcontractor of SHL; (e) the consequences of error, neglect or omission by SHL, its Affiliates, or any subcontractor of SHL; (f) union or labor work rules, strikes, work slowdowns and stoppages; (g) foreseeable mechanical failure of equipment; (g) reasonably anticipated weather conditions for Western Massachusetts; (h) the failure of SHL to secure any necessary patent or intellectual property protections, or (i) any change in federal or state law or regulation pertaining to the management or disposal of solid waste except to the extent that such change in law affects SHL's obligations hereunder with respect to Cell 2B through December 31, 2010.

“**Unlined Landfill**” shall mean all areas of the Landfill that contained waste materials of any kind as of August 22, 1995, i.e., the Existing Landfill minus Cells 1, 2A and 2B.

ARTICLE 2 - AGREEMENT AND TERM

2.1. Amendment and Restatement. Upon the Effective Date, this Agreement shall amend, wholly restate, and supersede the Prior Agreement by and among the parties. The Prior Agreement shall be considered null and void and of no further effect as of the Effective Date.

2.2. Purpose of Agreement. SHL agrees to operate and conduct Closure on Cell 2B of the Landfill, and to develop, operate and conduct Closure and Post Closure Activities on the Expansions as provided in this Agreement.

2.3. Term of Agreement. This Agreement shall become effective as of the date of execution by all parties (the “Effective Date”) and shall continue in full force and effect until the issuance of a Closure Approval for the last to be permitted, constructed and operated of Cell 2B, all or any portion of the Phase 1 Expansion, and/or all or any portion of the Phase 2 Expansion, provided that the term of this Agreement shall not extend beyond December 31, 2030, except as otherwise set forth in Section 2.4, below (the “Term”). SHL shall provide written notice to the Town at least 365 days prior to the cessation of waste receipts for the final Landfill cell so that the Town will have sufficient time to plan for alternative waste disposal. Notwithstanding the foregoing, the provisions of this Agreement relating to

Post-Closure Activities in Article 3, and all provisions of the Agreement that apply to such obligations, shall remain in effect beyond the conclusion of the Term or earlier termination of this Agreement, until those obligations are completed.

2.4. Term Extension. In the event that as of December 31, 2030, SHL has constructed but unutilized capacity at the Landfill, SHL and the Town may elect to extend the Term for a period of time sufficient to allow SHL to utilize such capacity and complete its closure obligations hereunder for up to an additional thirty-six (36) months. If SHL wishes to extend the terms as contemplated herein, SHL shall provide written notice to the Town not less than one hundred eighty (180) days prior to the expiration of the then current Term. The Town shall provide its agreement or disagreement to said extension within fifteen (15) days of its receipt of SHL's written notice.

2.5. References to Statutes and Regulations. All references to statutes and regulations in this Agreement shall mean those statutes and regulations that exist as of the Effective Date, and as they may be amended or modified during the Term.

ARTICLE 3 - SHL'S LANDFILL OBLIGATIONS

3.1. Development, Permitting, Management and Operation of the Landfill. SHL shall develop, permit, manage and operate the Landfill for use by SHL and the Town as provided in this Agreement. SHL shall assume sole responsibility, and shall pay all costs and expenses, for the conduct of the following activities, in each case in full compliance with All Applicable Laws:

(i) SHL will develop, permit, manage and operate the Landfill throughout the Term of this Agreement, and will provide the expertise and services necessary to accomplish these activities. SHL will have the exclusive right during the Term to develop, permit, manage and operate the Landfill and use the airspace available in Cell 2B of the Existing Landfill and the airspace developed in the Expansions for the purpose of disposing of solid waste in accordance with the requirements of this Agreement. SHL may pledge its income from the rights acquired in this Agreement for the purpose of financing the development and operation of the Landfill.

(ii) SHL will be responsible for preparing applications for all necessary Permits for the Landfill, including the Permits for the Expansions. SHL agrees to provide the Town with copies of applications for all Permits sufficiently in advance of the intended submittal dates so that the Town may review and comment on the applications before submittal. SHL will provide the Town with the right to participate in any meetings relating to such applications between SHL and the permitting authorities. The Town will make available its employees, consultants and elected officials as reasonably required for approval of applications for the Expansions, provided that SHL will reimburse the Town for the reasonable and actual cost to the Town for use of its consultants.

(iii) SHL will construct the Expansions, to the extent authorized by applicable Permits. SHL agrees to use all reasonable and good faith efforts to timely obtain the Permits necessary for the construction of the Expansions. SHL agrees to use all reasonable efforts to construct the Expansions such that there is continuous capacity available at the Landfill throughout the Term for the disposal of solid wastes from the Town in accordance with Section 3.6. SHL will provide the Town with a permitting and construction schedule with milestones for each of the expansion phases in advance of commencement of each expansion permitting process, and will update those schedules periodically as necessary so that the Town may stay informed of permitting and construction progress.

(iv) SHL will be responsible for the operation of the Landfill and will cause the Landfill to be operated in compliance with Applicable Laws. SHL will be solely responsible for all such activities,

including without limitation storm water management, gas collection and treatment, air quality monitoring, waste screening and disposal, application of daily and intermediate cover, installation and monitoring of groundwater monitoring wells, provision of site security, and maintenance and operation of leachate collection and disposal systems. SHL will provide and maintain during the Term the necessary pumps and sewer mains on the Landfill parcel to tie into the Town's sewer main.

(v) SHL will weigh all vehicles delivering solid waste to the Landfill before and after they dump their waste, using a truck scale located at the Landfill, and shall maintain records of each such shipment, with an identification of the shipper, the date, the waste type, and the weight of the load. SHL will maintain the truck scale and associated equipment, software, recording equipment and structures and will keep the equipment calibrated in accordance with All Applicable Laws. If the scale is not in service, SHL will estimate the quantity of solid waste delivered on the basis of truck load volumes from historical records for up to 48 hours and thereafter shall use portable scales. Any breakdown of the scale will be promptly repaired by SHL, which will notify the Town promptly if the scale is out of service for more than one (1) business day or reasonably anticipated to be out for more than one day. At the end of the Term, or upon the earlier termination of this Agreement, the scale and associated equipment, software, recording equipment and structures at the Landfill will become the property of the Town at no charge to the Town; provided, however, that with respect to certain software relating to the Landfill scale, that is not freely assignable by SHL, the Town will be responsible for paying any fees and costs imposed by any non-affiliate software vendor, licensor, or owner to accomplish such assignment and transfer.

(vi) The parties acknowledge that as of the date hereof, the potential incorporation of an MSE Berm into the design and construction of both the Phase 1 and Phase 2 Expansions has not been confirmed and is subject to further review and policy development by MassDEP. The parties further acknowledge that due to the lack of ability to confirm MassDEP's prospective approval of the use of an MSE Berm and the lack of ability to confirm the terms and conditions that may be imposed by MassDEP (and other regulatory agencies) in the event that an MSE Berm is allowable, SHL intends to retain flexibility throughout the permitting and approval process with respect to the potential use of an MSE Berm or the use of an earthen berm (for both the Phase 1 and Phase 2 Expansions). Notwithstanding the foregoing, in the event that SHL proposes the use of an MSE Berm in the context of either or both of the Phase 1 and Phase 2 Expansions, SHL shall promptly notify the Town (in any event, such notification to take place prior to SHL's submitting any request for Authorization to Construct or "ATC" pursuant to 310 C.M.R. 19.041) and the Town shall have forty-five (45) days from the date of the Town's receipt of SHL's notice to approve or disapprove of SHL's proposed use of an MSE Berm, which decision shall be at the Town's sole discretion. If the Town approves SHL's use of an MSE Berm, all provisions hereof relating to MSE Berms shall apply. If the Town disapproves of SHL's use of an MSE Berm, SHL shall not utilize an MSE Berm.

(vii) SHL will prepare Closure and Post-Closure cost estimates for the Landfill, and annual revisions thereof, and provide an approved Closure and Post-Closure cost Financial Assurance Mechanism to MassDEP for so long as maintenance of a Closure or Post-Closure cost FAM is required by MassDEP pursuant to 310 CMR 19.000. The parties acknowledge that the FAM is intended to cover the costs of both Closure and Post-Closure Activities.

- A. SHL will maintain such FAM for the Landfill in accordance with 310 CMR 19.051, and will adjust the amount of the FAM over time as required by 310 CMR 19.051 and as approved by MassDEP.
- B. With respect to the Existing Landfill only, SHL's obligation to maintain a FAM will terminate upon Closure Approval of the Existing Landfill stating that closure of the Existing Landfill has been completed in accordance with the closure plan

and permit conditions and in compliance with MassDEP regulations. On or before the date of Closure Approval, the Town will establish a post closure FAM in such form and amount as MassDEP may require at that time for Post Closure Activities at the Existing Landfill pursuant to 310 CMR 19.051(2). If MassDEP does not require a FAM for Post Closure Activities at that time, the Town shall not be required to establish a post closure FAM.

- C. Also with respect to the Existing Landfill only, if the Town can maintain a FAM to defray the costs of post closure care at no monetary cost to the Town, the Town will maintain the FAM. However, if there is any monetary cost to the Town to maintain the FAM, SHL shall, at the Town's election, either (a) pay the Town the reasonable costs incurred by the Town or (b) provide its own post closure FAM.

(viii) Notwithstanding anything to the contrary in this Agreement, SHL shall bear sole financial responsibility for the creation and maintenance of any portion of a financial assurance mechanism required by MassDEP to address one or more MSE Berms at the Landfill. In the event MassDEP requires one or more MSE Berm FAMs for the Landfill as a financial commitment that is separate from the FAM otherwise required for Closure and/or Post-Closure Activities, SHL will provide to MassDEP, and will maintain, MSE Berm FAM(s) in the amounts and as required by MassDEP for so long as maintenance of any MSE Berm FAM(s) is required. In the event MassDEP includes closure and/or post closure financial assurance for one or more MSE Berms as a component of a single Closure and/or Post Closure Activities FAM for the Landfill, SHL shall in all instances be responsible at its sole cost for the portion of such FAM(s) attributable to the MSE Berms.

(ix) SHL will perform the Closure of all portions of the Landfill as required by 310 CMR 19.000. SHL will provide the Town with design plans for closure, including a description of how the closure system will meet all required standards set forth at 310 CMR 19.112, sufficiently in advance of the intended submittal dates to MassDEP in order that the Town may review and comment on such plans.

(x) Post-Closure Activities.

Phase 1 Expansion. In the event that SHL does not receive an ATO for a Phase 2 Expansion, which shall be evidenced by the failure of SHL to procure an ATO by the date that MassDEP issues a Closure Approval for the Phase 1 Expansion, the parties shall instruct the Escrow Agent that all funds in the Post-Closure Escrow shall immediately be disbursed to the Town without setoff or deduction, and all such funds shall be so disbursed to the Town. Upon receipt of such funds, the Town will assume responsibility for Post-Closure Activities (excluding those activities arising from any MSE Berm as addressed in subsection (viii) above), subject to the Town's rights and remedies in this Agreement.

Phase 2 Expansion Having At Least 2 Million Cubic Yards. In the event that SHL receives one or more ATOs for a Phase 2 Expansion having an aggregate waste disposal capacity of 2 million cubic yards or more, (i) SHL will assume the obligation to perform all Post-Closure Activities with respect to the Existing Landfill, the Phase 1 and Phase 2 Expansions, and including on-site treatment of groundwater to the extent required by MassDEP, (ii) all sums in the Post-Closure Escrow shall subsequently be disbursed to SHL in accordance with the schedule set forth in Section 3.1(x)(b), below, for the costs of Post-Closure Activities, and (iii) SHL will pay no further post-closure fees to the Town. The parties anticipate that MassDEP will indicate whether an expansion of at least 2 million cubic yards is feasible. When/if MassDEP issues a conceptual approval for the Phase 2 Expansion at the beginning of the permitting process for the Phase 2 Expansion, however, the requirement for SHL to assume the

obligation set forth in this Section shall not attach until an ATO is issued that provides capacity for the Phase 2 Expansion in the aggregate of 2 million cubic yards or more.

Phase 2 Expansion Having Less Than 2 Million Cubic Yards. In the event that SHL does not receive one or more ATOs for the Phase 2 Expansion with an aggregate capacity of at least 2.0 million cubic yards, but does receive ATOs which in the aggregate authorize some smaller portion of the Phase 2 Expansion, then SHL shall have the right to elect to assume all responsibilities for Post-Closure Activities with respect to the Existing Landfill, Phase 1 and Phase 2 Expansions, including on-site treatment of groundwater to the extent required by MassDEP, by providing prompt written notice of such election to the Town upon receipt of the last to issue of said ATOs. SHL agrees that it will provide notice to the Town of any MassDEP conceptual approval for the Phase 2 Expansion upon its receipt of same.

(a) In the event that SHL does not elect to assume all responsibilities for such Post-Closure Activities, then SHL shall immediately notify the Town, the parties shall instruct the Escrow Agent that all funds in the Post-Closure Escrow Account shall immediately be disbursed to the Town without setoff or deduction, and such funds shall be so disbursed to the Town. Upon receipt of such funds, the Town shall retain the obligation to perform all Post-Closure Activities (excluding those activities arising from the MSE Berm as addressed in subsection (viii) above), and subject to the Town's rights and remedies in this Agreement.

(b) In the event that SHL elects to assume all responsibilities for Post-Closure Activities, (i) SHL will assume the obligation to perform all Post-Closure Activities with respect to the Existing Landfill, the Phase 1 and Phase 2 Expansions, and including on-site treatment of groundwater to the extent required by MassDEP, without regard to the amount of funds in the Post-Closure Escrow; (ii) SHL will pay no further Post Closure Fees to the Post-Closure Escrow; (iii) the funds in the Post-Closure Escrow shall subsequently be disbursed to SHL as set forth later in this section for the costs it incurs in conducting Post-Closure Activities at the Landfill, provided, however, that (x) at the time the MassDEP issues a Closure Approval for the Phase 2 Expansion, the parties will agree upon a third party neutral engineering firm with experience in post closure cost estimation for landfills, who will be hired by both parties jointly to calculate a reasonable post closure cost estimate, and (y) within thirty (30) days of receipt of the estimate, the parties shall instruct the Escrow Agent that any funds held in the Post-Closure Escrow that exceed 1.25 times the third party engineering firm's post-closure cost estimate will immediately be disbursed to the Town without setoff or deduction. Post-Closure Escrow disbursements to SHL shall be made as follows:

(aa) On the date upon which Post Closure Activities commence, the parties shall instruct the Escrow Agent to disburse to SHL from the Post Closure Escrow Account funds equal to that portion of the Post Closure Cost Estimate approved by MassDEP (in the context of establishing the required FAM amount) attributable to all expenditures reasonably projected in such estimate to be made during the first twelve (12) months of the Post Closure Activities;

(bb) On each anniversary of the date of commencement of Post Closure Activities, the parties shall instruct the Escrow Agent to disburse to SHL from the Post Closure Escrow Account funds equal to that portion of the Post Closure Cost Estimate approved by MassDEP (in the context of establishing the required FAM amount and as may be revised by MassDEP from time to time) attributable to all expenditures reasonably projected in such estimate to be made during the immediately following twelve (12) month period, subject to adjustment, as set forth below;

(cc) SHL shall use all funds disbursed to it in accordance herewith for the payment and/or reimbursement of reasonable and actual costs associated with Post Closure Activities;

(dd) Except as provided in this section, SHL shall not use funds disbursed in any given year for the payment and/or reimbursement of costs associated with Post Closure Activities in prior or subsequent years;

(ee) To the extent that costs associated with Post Closure Activities in any twelve (12) month period are less than those disbursed at the outset of said twelve (12) month period, SHL shall apply those funds to the amounts projected to be expended during the twelve (12) month period and shall deduct those funds from its request for disbursement for that period;

(ff) To the extent that costs associated with Post Closure Activities in any twelve (12) month period exceed the amount disbursed at the outset of said twelve (12) month period, SHL shall document such costs in its annual report to the Town as provided in (gg) below. SHL shall be entitled to reimbursement of costs in excess of the initial disbursement for that year if the Town determines, in the exercise of reasonable discretion, that the costs incurred were reasonable. The Town's review and approval of such excess cost disbursement shall not be unreasonably withheld or delayed;

(gg) SHL shall provide the Town with a detailed annual report of all costs associated with Post Closure Activities, including supporting documentation of costs and payments thirty (30) days prior to each anniversary date of the commencement of Post Closure Activities;

(hh) At the completion of Post Closure Activities, as determined by MassDEP, the parties shall instruct the Escrow Agent to disburse fifty percent (50%) of all sums remaining in the Post Closure Escrow Account, together with any interest accrued thereon, to each of the Town and SHL, and the Escrow Account shall thereafter be closed.

All Post-Closing Activities shall be performed as required by 310 CMR 19.000, as the same may be amended through the conclusion of the Post-Closure Activities. Notwithstanding anything to the contrary in this Agreement, in the event that the Town has the obligation to perform Post Closure Activities, to the extent Post-Closure Activities require costs that arise from the negligent or faulty performance of Landfill operations or Closure by SHL, those costs shall be borne by SHL.

3.2. Maximum Landfill Receipts and Hours of Operation. SHL may apply for permits to operate the Landfill at a disposal rate no greater than 600 tons of solid waste per day, and 156,000 tons of solid waste per calendar year. Notwithstanding anything to the contrary in this Agreement or in any governmental permit or approval, in no event will SHL accept for disposal at the Landfill more than 600 tons of solid waste per day, or more than 156,000 tons of solid waste per calendar year, during the Term of this Agreement. SHL will accept waste deliveries at the Landfill only during the hours specified in its existing permits and at such hours as are sufficient to accept all waste generated by the Town as contemplated herein, including without limitation acceptance of waste deliveries from 12 noon until 4:00 p.m. Monday through Saturday, unless other hours are mutually agreed upon by the parties. The hours of operation may be varied by agreement between SHL and the Town, through its Superintendent of Public Works.

3.3. Governmental Submittals. Except as otherwise provided in this Agreement, SHL will provide the Town with copies of all documents submitted to any governmental agencies relating to the Landfill, prior to, or simultaneous with, their submittal. Additionally, SHL will provide the Town with weekly summary reports of all Landfill gate receipts and disposal rates, and, upon reasonable notice, access to all backup documents to support these reports in sufficient detail to permit the Town to audit the veracity of the reports.

3.4. Groundwater Treatment. Except in certain post closure scenarios described herein, SHL will at its sole expense construct, operate and maintain a groundwater treatment system at the Landfill site pursuant to, and in accordance with, MassDEP requirements and Applicable Laws. The purpose of the groundwater treatment system shall be to treat on-site groundwater at the Unlined Landfill in accordance with the goals and methods that are approved by MassDEP. SHL will provide to the Town design plans for the groundwater treatment system sufficiently in advance of the intended submittal date to MassDEP so that the Town may review and comment on the plans before submittal. Upon the conclusion of the Term, the ownership of the groundwater treatment system shall automatically transfer to the Town at no cost to the Town, and SHL shall have no further obligation to operate and maintain such system under this Agreement, except to the extent SHL assumes responsibility for Post Closure Activities as provided in Section 3.1(x).

3.5. Truck Routes. SHL will provide in all contracts with third parties for delivery of solid waste to the Landfill that motor vehicles making deliveries shall, where reasonably possible, approach the Landfill by the following routes: (i) Old Lyman Road; (ii) New Ludlow Road; (iii) Route 202; (iv) Route 47; (v) Route 116; or (vi) Route 33.

3.6. Waste Disposal.

(i) SHL will accept for disposal at the Landfill only solid waste that is permissible for disposal at the Landfill in accordance with All Applicable Laws. SHL will visually inspect all incoming loads of waste at the Landfill and will not accept (a) any Prohibited Wastes, (b) any loads containing construction and demolition debris processing fines, residuals or other construction and demolition processing residues, or (c) any loads containing greater than ten percent (10%) gypsum wallboard. SHL may establish additional reasonable waste prohibitions for the Landfill, provided that SHL enforces those prohibitions on a non-discriminatory basis and the prohibitions do not conflict with its obligations to accept Town waste in this Section 3.6. In the event SHL learns that it has accepted any Prohibited Wastes, it will notify the Town and will segregate and remove the wastes to the maximum extent practicable.

(ii) SHL will accept for disposal at the Landfill throughout the Term up to the following amounts of solid waste generated within the Town:

- A. Prior to the issuance of an Authorization to Operate for all or any portion of the Phase 1 Expansion, SHL will (1) accept for disposal at the Landfill without charge up to 4,000 tons of solid waste per calendar year (and proportionally for any partial year) generated within the Town and delivered in vehicles designated by the Town, with no more than 30 tons of waste being delivered on any day during which the Landfill is operating, and (2) accept for disposal at the Landfill residential solid waste delivered by citizens of the Town and wastewater treatment plant residuals delivered by the Town, both at a fee no greater than the lowest municipal solid waste disposal fee charged to any non-resident of the Town at the time of disposal;
- B. Commencing with the issuance of an Authorization to Operate for all or any portion of the Phase 1 Expansion, and continuing until cessation of waste receipts in the final Landfill cell of the Phase 2 Expansion, if any, SHL will accept for disposal at the Landfill without charge up to 8,000 tons of solid waste per calendar year (or proportionally for any partial year), with no more than 60 tons

of waste being delivered on any day during which the Landfill is operating, such solid waste to consist of solid waste generated within the Town and delivered in vehicles designated by the Town, residential solid waste delivered by citizens of the Town, wastewater treatment plant residuals delivered by the Town and street sweepings/catch basin cleaning materials delivered by the Town, subject to the following: (x) the Town shall not be entitled to deliver more than thirty (30) tons of wastewater treatment plant residuals on any day, provided that if the Town provides SHL with telephonic notice on the preceding business day, the Town may deliver up to fifty (50) tons of wastewater treatment plant residuals on the day as to which notice is given; (y) the Town shall not be entitled to deliver more than thirty-five (35) tons of municipal solid waste in any day; and (z) street sweepings/catch basin cleaning materials generated by the Town that are suitable for use as daily cover material will be accepted by SHL without charge and without counting towards the daily free waste allocation of 35 tons or the annual free tonnage allocation of 8,000 tons. The Town's annual free tonnage allocation of 8,000 tons per year as set forth in this sub-section shall increase by 100 tons per year, with the first additional 100 ton per year increment added in 2012 and continuing with additional annual 100 ton increases to the end of the Term hereof.

SHL will not reject solid waste delivered from the Town under this subsection (ii) unless SHL is prohibited from accepting such waste by All Applicable Laws, or as a result of an Uncontrollable Circumstance.

(iii) SHL will accept for disposal at the Landfill from the Town solid waste generated from extraordinary circumstances (i.e., hurricanes and other natural disasters), provided that such solid waste will be treated as waste to be accepted for disposal at the Landfill without charge under Section 3.6(ii) up to the applicable annual limit, and that thereafter SHL may charge the Town a fee for disposal in excess of that annual limit, which fee shall be no greater than the lowest fee charged by SHL for municipal solid waste disposal at that time.

(iv) SHL will accept for disposal at the Landfill solid waste collected from citizens of the Town by private collectors, and solid waste for disposal that the Town delivers to the Landfill in excess of any of the free tonnage allocations set forth in this section 3.6(ii)(B) above, at a fee no greater than the lowest fee charged to any non-resident of the Town at the time of disposal.

(v) Except as otherwise provided in this Section 3.6, SHL may charge third parties for the disposal of solid waste at the Landfill at prices determined by SHL.

3.7. Town Waste Disposal Commitment for Cell 2B. SHL agrees to use all reasonable efforts to obtain and maintain all necessary permits and approvals for the continued operation of Cell 2B of the Landfill, and agrees to continuously accept for disposal in Cell 2B all of the Town's waste as set forth in Sections 3.6(ii)(A), 3.6(iii) and 3.6(iv) through and including December 31, 2010. In the event that SHL fills Cell 2B to capacity prior to December 31, 2010 such that it can no longer dispose of all such wastes from the Town, and further provided that SHL obtains all necessary permits and approvals to transfer the Town's waste and conducts its activities in accordance with law, SHL may avoid the incurrence of liquidated damages pursuant to Section 7.5 hereof by, following sixty (60) days advance notice to the Town, transferring Town solid waste received pursuant to Sections 3.6(ii)(A), 3.6(iii) and 3.6(iv) to third party disposal sites selected by SHL through and including December 31, 2010, but only on the conditions that (a) such disposal sites have all necessary permits for the receipt and disposal of such waste and are operated in compliance with law, and (b) SHL hereby agrees to indemnify, defend (with counsel

selected by the Town), and save the Town harmless from and against any and all liability which the Town may be threatened with or become responsible for as a result of bodily injuries (including death), property damage, any violation or alleged violation of law, or the actual or threatened release of hazardous substances to the environment, which arises from the management and/or disposal of such solid waste once it leaves the custody of the Town. SHL may achieve the transfer of the Town's waste in accordance with this Section 3.7 either by contracting separately, if feasible, with the provider of the Town's solid waste collection services to direct haul the waste to a third party site, or by itself conducting a transfer operation at the Landfill. Any such transfer operation shall be limited to a discrete location at the Landfill, which location shall be subject to the advance approval of the Town, such approval not to be unreasonably delayed or withheld, and SHL shall be authorized to transfer only the wastes described in Section 3.7, and shall not have the right to transfer any other wastes from Town property pursuant to this Agreement. The Town shall incur no costs for any transfer, transport or disposal of wastes described in Section 3.6(ii). The Town shall be responsible to pay to SHL for the transfer, transport and disposal of wastes described in Section 3.6(iii) and (iv) an amount equal to the rate paid by the Town for disposal of such wastes during the last month in which SHL accepted at least 450 tons of waste per day. In the event SHL conducts such transfer activities for the period (if any) commencing on the issuance of a MassDEP closure certification for the Landfill and continuing through and including December 31, 2010, SHL shall (i) reimburse the Town for its expenses in fulfilling its Post-Closure Activities requirements for the Existing Landfill pursuant to 310 CMR 19.142, and (ii) continue to pay to the Town the annual \$15,000 fee provided for in Section 5.3 through December 31, 2010.

3.8. Access. SHL agrees that Town employees and consultants designated by the Town Administrator may access the Landfill for legitimate Town business at any time. To the extent that SHL maintains locks on the access gate to the Landfill, it will provide keys to the Town Administrator. Other Town employees, elected officials, authorized agents and representatives may access the Landfill during regular business hours with reasonable advance notice to SHL to the extent possible, except in the case of emergency (in which case they may access the Landfill at any time). All visits shall be conducted in a manner as to reasonably minimize interference with SHL's operations. Visitors shall be responsible for complying with reasonable safety rules adopted by SHL and uniformly enforced for all visitors to the Landfill. This section shall not be construed to interfere with the rights of any public official to carry out any public duty in accordance with Applicable Laws.

3.9. Covenant of Regulatory Compliance. SHL hereby covenants that its construction and operation of the Landfill shall comply with All Applicable Laws, and that its construction and operation of the Landfill will not result in or contribute to a violation by the Town of any applicable governmental law or regulation. It will be the obligation of SHL to request and obtain all information necessary to comply with its obligations hereunder. SHL will be solely responsible for the payment of penalties or fines imposed by governmental authorities in connection with the Landfill, even if assessed against the Town as owner of the Landfill, but only to the extent such fines are based upon SHL's activities or operations at the Landfill. It is expressly understood and agreed that the obligations set forth in this Section 3.9 are not applicable to any non-compliance with governmental regulations which non-compliance existed in the Landfill as of August 22, 1995.

3.10. Insurance. SHL shall maintain insurance during the Term in the minimum amounts and under the conditions set forth in Exhibit C attached hereto and incorporated herein. SHL shall provide the Town annually with a certificate of insurance certifying such coverage and certifying compliance with the following requirements. The certificate shall state that the coverage shall not be canceled except upon thirty (30) days notice to the Town. In the event the insurance coverage required by this Agreement is not reasonably available, the Town, in its reasonable judgment, may accept any form of financial security in lieu of such insurance coverage and upon such terms as it determines to be the substantial equivalent of

such coverage or bond. Inability to obtain such insurance or other reasonable financial security shall constitute an Event of Default.

3.11. Records. SHL will regularly maintain records of all deliveries of Revenue Generating Materials to the Landfill, including the name and address of the haulers, and the source, kind, and weight of the waste received. These records will be maintained by SHL for at least five (5) years and will be made available to authorized representatives of the Town for inspection upon one (1) business day's advance notice. Before disposing of any such records, SHL will give the Town sixty (60) days prior notice and the Town will have the right to take possession of such records within such period.

The Town will have the right to audit the weight records of SHL and inspect the weighing equipment and procedures at reasonable times. If an audit discloses that fees due to the Town have been understated by more than ten (10%) percent of the amount due during the audit period, SHL will be liable for the cost of the audit. SHL will pay the amount of the understatement and interest thereon from the date of underpayment.

3.12. Guaranty. SHL will deliver to the Town on or before the Effective Date a Guaranty to secure all payment and performance obligations of SHL under this Agreement, in the form attached hereto as Exhibit D. The Guaranty will be executed by Interstate Waste Services, Inc., as a parent company of SHL, and Interstate Waste Services, Inc. joins in this Agreement to acknowledge its commitment to so deliver the Guaranty. The Guaranty previously provided to the Town pursuant to the Prior Agreement is rescinded as of the date of receipt by the Town of the executed Guaranty called for in this section.

3.13. Landfill Gas to Energy.

(i) Subject to 3.13(ii) below, SHL may, but is not required to, subject to compliance with Applicable Laws, develop and operate a landfill gas to energy project at the Landfill for the purpose of combusting gas produced by the Landfill and creating electricity. The Town will be entitled to fifty (50) percent of the net proceeds attributable to the operation of the gas to energy project during the Term of this Agreement. SHL will be entitled to fifty (50) percent of the net proceeds attributable to the operation of the gas to energy project during the Term of this Agreement. Net proceeds attributable to the operation of the gas to energy project during the post closure period will be allocated pursuant to section 3.13(iii) below. Net proceeds for these purposes will mean the gross revenues received (including all revenues received from the sale, transfer or conveyance of all Landfill Gas to Energy Credits) minus third party (non-Affiliate) fees and costs in permitting, constructing, operating and administering the gas to energy project. Greenhouse Gas Credits will not be included in the calculation of net proceeds. All Greenhouse Gas Credits will be solely for the benefit of the Town and will not be available for use or capture by SHL or as part of the revenues of a gas to energy project. Such credits are discussed in section 5.10 below. The Town will have a right upon reasonable notice to review SHL's financial records to calculate the Town's share of revenues.

(ii) The Town and SHL may independently pursue proposals for the construction and operation of a gas to energy project at the Landfill following the Effective Date and agree to meet and compare alternative proposals within six months of the Effective Date. The parties agree that they will work in good faith to jointly select and pursue one of the proposals presented by either party that maximizes the net proceeds available from the project that is consistent with, and does not materially and adversely interfere with, good landfill operating practices.

A. For any project that is jointly selected, SHL agrees to manage or oversee the construction and operation of the project and provide other reasonable assistance. The parties agree that said project is intended to be constructed and operated by a third party contractor.

B. For any project that is selected and pursued by the Town (but not selected by SHL), said project must maximize the net proceeds available from the project, and must be consistent with, and must not materially and adversely interfere with, good landfill operating practices (in SHL's reasonable discretion). SHL may, but is not required to, manage or oversee the construction or operation of any such project. If SHL declines to participate in the project, then the Town may proceed with the construction and operation of its proposal at the Landfill. In such event, SHL agrees to make available landfill gas at appropriate connection points, make available suitable locations for the power plant and associated equipment (subject to SHL's operational needs at the Landfill), reasonably cooperate in permitting activities, and undertake such other reasonable activities as the Town may request. SHL will not be required to fund or otherwise expend financial resources with respect to permitting or permit modifications (except to the extent that SHL wishes to undertake its own engineering or permitting reviews, which shall be at its sole expense), or devote any material resources to construction or operation of the project except as set forth in this paragraph.

C. The parties agree that it is their intent to select a project within six months of the Effective Date, commence construction (subject to permitting) within twelve months of the Effective Date, and commence operation (subject to permitting) within eighteen (18) months of the Effective Date.

(iii) In the event that SHL assumes all responsibilities for Post-Closure Activities for the Expansions pursuant to section 3.1(ix) hereof, then SHL shall continue to be entitled to 50% of the landfill gas revenues attributable to the operation of the gas to energy project during the entire post closure period. In the event that SHL does not assume all responsibilities for Post-Closure Activities pursuant to section 3.1(x) hereof, then the Town shall be entitled to 100% of the landfill gas revenues attributable to the operation of the gas to energy project during the entire post closure period. At the end of the post closure period, the Town will be entitled to 100% of the landfill gas revenues.

ARTICLE 4 - TOWN'S OBLIGATIONS

4.1. Cooperation. The Town agrees to cooperate with SHL in its efforts to develop, permit, manage and operate the Landfill for use by SHL and the Town as provided in this Agreement. This cooperation will include executing documents reasonably necessary to obtain permits required for the development, operation, and Closure of the Landfill including any Expansion, following Town review and confirmation that such documents are appropriate for Town signature, which confirmation is not to be unreasonably withheld, delayed or conditioned by the Town. To the extent authorized by law, the Selectboard of the Town agrees to not propose or endorse any amendment to the Town's zoning bylaws or other regulations and ordinances which has the effect of applying in a selective or discriminatory manner on SHL (and not uniformly to residents or businesses in the Town of South Hadley) and which prevents SHL from performing its obligations under this Agreement or materially and adversely affects SHL's ability to perform its obligations, so long as SHL is in compliance with the provisions of this Agreement and the Landfill is in compliance with Applicable Laws. The parties recognize that the Massachusetts Constitution limits the extent of the Town's obligations in the preceding sentences by invalidating any contractual provision to the extent the provision limits the Town's rights to exercise police powers. *See Opinion of the Justices*, 341 Mass. 760, 783-784 (1960). Consequently, this Section 4.1 shall be interpreted to restrict the Selectboard only with respect to actions that are not the exercise by the Selectboard of police powers granted under the Massachusetts Constitution and state law.

4.2. Provision of Information. The Town agrees to provide any information reasonably available regarding the prior operations of the Landfill or the site of the Landfill as necessary for the purpose of obtaining any required governmental approvals.

4.3. Exclusive Rights. Except as otherwise provided herein, the Town grants to SHL the exclusive right during the Term (i) to use the airspace available in Cell 2B of the Existing Landfill; (ii) to develop and permit the Expansions; and (iii) to use the airspace developed in the Expansions for the purpose of disposing of solid waste, all in accordance with the requirements of this Agreement. SHL may pledge its income from the rights acquired in this Agreement for the purpose of financing the development and operation of the Landfill. In addition, the Town will use reasonable efforts to assist SHL in locating land for any habitat replacement, wetlands replication, or other mitigation that may be required in connection with the Phase 2 Expansion.

4.4. No Waiver of Municipal Rights. Nothing contained in this Article 4 or this Agreement shall be construed to be (i) a waiver or bar to the right of the Town to enforce all existing zoning or other regulations, ordinances and bylaws, or where applicable, All Applicable Laws, or (ii) a limitation on the power and the authority of the Town or any of its officers, boards or commissions to promulgate bylaws and regulations, or in any way to limit the authority of the Town to exercise its statutory or regulatory powers and authorities.

4.5. Treatment of Wastewater.

(i) The Town will accept for treatment, and waive payment for disposal of, all (a) leachate generated at the Landfill, and (b) groundwater generated from the groundwater treatment system to be installed pursuant to Article 3 of this Agreement, except to the extent that the discharge of such leachate or groundwater treatment system effluent to the Town's water pollution control system violates All Applicable Laws or exceeds the hydraulic capacity of the Town's collection and treatment system, or MassDEP determines that the groundwater treatment system must discharge to the subsurface environment.

(ii) The Town agrees to waive its annual sewer use fees attributable to the Landfill, but SHL shall be responsible for payment of an industrial discharge permit fee.

(iii) Prior to discharge to the Town's sewer main, SHL will, to the extent required by All Applicable Laws, pretreat Landfill leachate and groundwater treatment system effluent. SHL will comply in all respects with applicable requirements for industrial wastewater discharges, including without limitation the requirements of the Town's industrial pretreatment program. SHL, and not the Town, will be responsible for any increase in the Town's costs associated with the discharge of leachate or groundwater treatment system effluent that arises from SHL's non-compliance with All Applicable Laws.

4.6. Town Compost. SHL may, subject to the requirements of law and further subject to availability upon receipt of a request from SHL, use up to 2,500 yards of compost from the Town's compost area for the purpose of creating and placing a final cap on Landfill Cells 2A and 2B.

4.7. Property Taxes. The Town, to the extent legally permitted, agrees not to impose or seek to impose any fee or tax, including but not limited to real property, personal property, ad valorem, use or any other tax, charge or imposition of any kind, on the Landfill, or on any personal property which is (i) owned by SHL and (ii) used in connection with the construction or operation of the Landfill, unless obligated by state or federal law.

ARTICLE 5 - PAYMENTS TO THE TOWN

5.1. Host Fee.

(i) Prior to the issuance of an Authorization to Operate for all or any portion of the Phase 1 Expansion, SHL will pay the Town after the end of each calendar month of the Term (or portion thereof for any partial month at the beginning or end of the Term) a fee (the “Host Fee”) equal to the greater of (i) Two Dollars (\$2.00) per ton, or (ii) five percent (5%) of the “tip fee” charged, for all Revenue Generating Materials received at the Landfill Gate-; provided, however, that the Host Fee shall be equal to six percent (6%) of the tip fee for any Revenue Generating Materials received at the Landfill gate at a rate equal to or greater than seventy dollars (\$70) per ton.

(ii) Commencing as of the date of the issuance of the Authorization to Operate for all or any portion of the Phase 1 Expansion, the Host Fee shall be equal to the greater of (i) ten percent (10%) of the “tip fee” charged for all Revenue Generating Materials; or (ii) Two Dollars (\$2.00) per ton.

(iii) The Host Fee will be paid in addition to any other fees or assessments payable pursuant to this Agreement. The Town acknowledges that the Host Fee and the other fees and payments set forth in this Agreement shall be in lieu of, and not in addition to, the Private Facility Tax pursuant to 310 CMR 19.050(5) and M.G.L. c. 16, § 24A and all taxes, fees, charges or assessments that the Private Facility Tax supersedes or replaces.

(iv) In the event SHL accepts for disposal or reuse at the Landfill any Revenue Generating Materials provided by an Affiliate, or by any entity under contract with an Affiliate, SHL will disclose such acceptance to the Town within the calendar month of receipt and the tip fee charged for such Revenue Generating Materials will be imputed as the higher of the actual tip fee or the average third party (non-Affiliate) tip fee paid for disposal of municipal solid waste and construction and demolition debris at the Landfill during the same calendar month, which average shall be calculated by dividing the aggregate revenue from such third parties during the month by the total number of tons delivered by such third parties during the same month.

(v) In the event SHL accepts for disposal or reuse at the Landfill without charge any materials with a market value, SHL will disclose such acceptance to the Town within the calendar month of receipt and will explain the circumstances. The burden shall be on SHL to show that no value was received by SHL or any Affiliate of SHL in lieu of a fee. In the event value was (or will be) so received, the materials will be considered Revenue Generating Materials and an imputed value will be assigned to such materials that represents the fair market value of the materials if exchanged among unrelated parties in Western Massachusetts.

5.2. Post-Closure Fee. SHL shall pay a Post-Closure Fee on a per ton basis for all Revenue Generating Material received at the Landfill Gate as provided in this Section 5.2. The amount of the Post-Closure Fee shall be adjusted commencing on January 1, 2011, and annually thereafter through the end of the Phase 1 Expansion, to reflect annual increases in the CPI by the amount of the increase in the CPI for the prior year, except in no event shall the annual increase exceed 2.5% in any year.

(i) Prior to the issuance of an Authorization to Operate for all or any portion of the Phase 1 Expansion, SHL shall pay the Post-Closure Fee to the Town in the amount of \$1.60/ton of Revenue Generating Materials received at the Landfill Gate.

(ii) Upon the issuance of an Authorization to Operate for all or any portion of the Phase 1 Expansion, (a) SHL shall pay the Post Closure Fee to the Town in the amount of \$1.60/ton of Revenue

Generating Materials received at the Landfill Gate (adjusted for increases in the CPI as set forth above) and (b) the Town and SHL shall agree upon the selection of an Escrow Agent, and shall enter into an agreement with the Escrow Agent similar in form and substance to the Escrow Agreement attached hereto as Exhibit B. Thereafter, (a) all Post-Closure Fees paid by SHL to the Town since January 1, 2003, together with any interest earned thereon from and after July 1, 2009, shall be placed in the Post-Closure Escrow, and (b) SHL shall continue to pay the Post-Closure Fee as stated above, except that all payments shall be made to the Escrow Agent and shall be deposited into the Post-Closure Escrow.

(iii) Commencing as of the date of the issuance of an Authorization to Operate for all or any portion of the Phase 2 Expansion, the amount of the Post-Closure Fee shall change to the higher of (a) the then-current Post-Closure Fee, or (b) \$2.40 per ton of Revenue Generating Materials received at the Landfill Gate, and shall be adjusted annually for increases in the CPI as stated above. In the event SHL elects pursuant to section 3.1(x) above to assume responsibility for all Post-Closure Activities, SHL shall not be required to pay further Post-Closure Fees.

5.3. Household Hazardous Waste Collection Fee. Prior to the issuance of the Authorization to Operate for all or any portion of the Phase 1 Expansion, SHL will pay to the Town during the first month of each twelve month period an annual fee in the amount of \$12,500. Commencing as of the date of the issuance of the Authorization to Operate for all or any portion of the Phase 1 Expansion, SHL will pay to the Town during the first month of each twelve month period an annual fee in the amount of \$15,000, adjusted on an annual basis to reflect increases in the CPI, except in no event shall any such adjustment exceed 2.5% in any year. Such fee shall be paid in full for years 2009 and 2010, and may be pro-rated during and after 2011 to the extent that the payment obligation terminates mid-year. Such fee shall be used by the Town for the conduct of household hazardous waste collection events or such other purposes selected by the Town Selectboard. SHL's only involvement in such activities shall be the payment of such annual fee.

5.4. Environmental Impact Fee. Within sixty days of the issuance of an Authorization to Operate for all or any portion of the Phase 2 Expansion, SHL will pay to the Town's Conservation Commission on a one-time basis an environmental impact fee equal to \$25,000 per acre of Town land used or to be used by SHL for the Phase 2 Expansion, and a proportional amount for any partial acres of land.

5.5. DPW Account. Within sixty days of the issuance of an Authorization to Operate for all or any portion of the Phase 1 Expansion, and annually thereafter for so long as SHL continues to accept waste for disposal in the Phase I Expansion area, SHL will pay to the Town's Department of Public Works Fund (or to the Town's Treasurer if such a fund has not yet been established) a fee of \$50,000 ("DPW Fee"), adjusted on an annual basis to reflect increases in the CPI, except in no event shall any such adjustment exceed 2.5% in any year. Such fee shall be pro-rated to the extent that the payment obligation terminates mid-year. Such fee shall be used by the Town for the purpose of infrastructure improvements, equipment procurement, and services to benefit the Town. Upon the issuance of an Authorization to Operate for all or any portion of the Phase 2 Expansion, the amount of the DPW fee shall be increased to \$100,000, adjusted on an annual basis to reflect increases in the CPI, except in no event shall any such adjustment exceed 2.5% in any given year and in no event shall the total annual amount of such payment exceed \$125,000). SHL shall continue to pay the DPW Fee for so long as SHL continues to accept waste for disposal in the Phase 2 Expansion area. Such fee shall be pro-rated to the extent that the payment obligation terminates mid-year.

5.6. Town Discretionary Account Fee. No later than the Effective Date, SHL will pay to the Town the amount of \$100,000, to be used as may be determined by the Selectboard of the Town. Within sixty days of the issuance of an Authorization to Operate for all or any portion of the Phase 2 Expansion,

SHL will pay to the Town the additional amount of \$50,000, to be used as may be determined by the Selectboard of the Town.

5.7. Odor Investigation Reimbursements. SHL and the Town each recognize that its personnel will, from time to time, become involved in the investigation of odor complaints, regardless of their source, in the ordinary course of business. In the event that the Landfill is determined to be the source of odors in response to a particular complaint, SHL will reimburse the Town for its reasonable response costs upon receipt of a written request. In no event shall SHL's reimbursement obligation under this Section 5.7 exceed \$20,000, adjusted on an annual basis to reflect increases in the CPI, except in no event shall any such adjustment exceed 2.5% in any year, in any calendar year for all complaints received in that year, provided, however that the Town may seek to recover additional costs not reimbursed by this paragraph using any other applicable legal authority, and the \$20,000 annual contractual limit in this paragraph is not intended to be a limitation of SHL's liability for such costs except pursuant to this paragraph.

5.8. Payment of Fees. The fees described in Sections 5.1 and 5.2 will be calculated on a monthly basis and SHL will pay such amounts to the Town not later than the last day of the next following month. The fees and reimbursements described in Sections 5.3 - 5.7 shall be calculated and paid as described in those sections. If payment on any of these fees or reimbursements is not made within ten (10) business days following the due date, interest on the unpaid amounts at the rate of two percent (2%) above the then existing prime rate (as published in the Wall Street Journal) from the due date until the date of payment shall be due. With each fee payment made pursuant to this Section, SHL shall provide to the Town a summary report, in such form as is reasonably acceptable to the Town, which furnishes the relevant information with respect to the calculation of the fees.

5.9. CPI Adjustments. Where an annual adjustment is called for in this Article 5 to reflect increases in the CPI, the adjustments will reflect the increase (if any) between the CPI for the then current year and the CPI for the immediately preceding year. The initial year for commencing CPI adjustments will be 2010 unless otherwise set forth herein.

5.10. Greenhouse Gas Credits. All Greenhouse Gas Credits that can be received for the control of gases emitted by the Landfill will be solely for the benefit of the Town and will not be available for use or capture by SHL; SHL agrees to pursue all available Greenhouse Gas Credits contemplated in this section diligently and will not enter into any agreements on such credits without the prior approval of the Town. All net proceeds from the sale of Greenhouse Gas Credits will be paid to the Town. "Net Proceeds" means gross revenues less third party (non-Affiliate) fees and costs in obtaining, administering and maintaining the Greenhouse Gas Credits. The Town reserves the right to pursue such Greenhouse Gas Credits separately if it is able to obtain a better financial return than offered by SHL provided that no actions taken by the Town would have a material and adverse effect on SHL's Landfill operations (in SHL's reasonable discretion) or revenues.

5.11. Re-Directed Sludge Option/Payment. The Town may elect to redirect all or a portion of its wastewater treatment plant sludge from the Landfill to an alternative sludge management option at its discretion provided that said alternative management option will cost the Town less per ton of sludge disposed than the then-current average tip fee for MSW disposal at the Landfill. The parties acknowledge and agree that any calculations or quantifications of cost made under this Section 5.11 shall quantify the costs of re-directed sludge at the same weight-to-volume ratio as the sludge has exhibited over the prior three (3) years (averaged on the basis of three (3) one (1) year averages) as disposed of at the Landfill based upon available records. If the Town so elects to redirect all or a portion of its sludge pursuant to this paragraph, the following provisions shall apply:

(i) If replacement sludge can be identified and obtained for disposal at the Landfill and authorized/approved as necessary by MassDEP, the Town will receive 100% of the revenue received from the disposal of said replacement sludge, up to the full amount of the value associated with the re-directed sludge. SHL agrees to use best efforts to obtain the highest reasonable price for disposal of the replacement sludge and the Town shall have the right to review any alternative replacement sludge options to confirm that SHL used best efforts to obtain the highest reasonable price for acceptable replacement sludge.

(ii) If no replacement sludge is identified and obtained in accordance with 5.11(i), above, at a price at or above the then current average tip fee for MSW disposal at the Landfill, the Town will receive 100% of the then-current average tip fee for MSW disposal at the Landfill for each ton of sludge that it has re-directed from the Landfill.

(iii) The Town may elect to resume disposal of previously redirected sludge to the Landfill upon three (3) months advance written notice to SHL.

ARTICLE 6 - REPRESENTATIONS

6.1. SHL Representations and Warranties. SHL represents and warrants to the Town:

(i) SHL is duly organized and validly existing as a limited liability company under the laws of Delaware, and qualified to do business in Massachusetts, with full legal right, power and authority to enter into and perform its obligations under this Agreement.

(ii) SHL has duly authorized the execution and delivery of this Agreement and this Agreement has been duly executed and delivered by SHL and constitutes a legal, valid and binding obligation of SHL, enforceable against SHL in accordance with its terms; subject to bankruptcy, insolvency, moratorium, reorganization and other laws affecting the enforcement of creditors' rights generally, and to general principles of equity.

(iii) Neither the execution and delivery by SHL of this Agreement, nor the performance by SHL of obligations in connection with the project contemplated hereby, nor the fulfillment by SHL of the terms or conditions of this Agreement conflicts with, violates, or results in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which SHL is a party or by which SHL or any of its properties or assets are bound, or constitutes a default thereunder or will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of SHL.

(iv) There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the best of SHL's knowledge, threatened, against SHL, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by SHL of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of the Agreement.

6.2. Town Representations and Warranties. The Town represents and warrants to SHL:

(i) The Town is a municipal corporation validly existing under the laws of the Commonwealth of Massachusetts with the power under and pursuant to applicable law to enter into and perform this Agreement.

(ii) The Town has duly authorized the execution and delivery of this Agreement and the performance by the Town of its obligations hereunder, and this Agreement has been duly executed and delivered by the Town and constitutes a legal, valid and binding obligation of the Town, enforceable against the Town in accordance with its terms; subject to bankruptcy, insolvency, moratorium, reorganization and other laws affecting the enforcement of creditors' rights generally and to general principle of equity.

(iii) Neither the execution or delivery by the Town of this Agreement, nor the performance of the Town's obligations in connection with the transactions contemplated hereby nor the Town's fulfillment of the terms or conditions of this Agreement conflicts with, violates or results in a breach of any applicable law, or conflicts with, violates or results in a breach of any term or condition of any judgment or decree, or any agreement or instrument, to which the Town is a party or by which the Town or any of its properties or assets are bound, or constitutes a default there under, or will result in the creation of any lien, encumbrance or security interest upon any properties of assets of the Town.

(iv) No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required for the valid execution and delivery by the Town of this Agreement except those that have been duly obtained or made.

(v) There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the best of the Town's knowledge, threatened, against the Town or any other party, wherein and unfavorable decision, ruling or finding would materially adversely affect the Site or the Landfill or the performance of its obligations of the Town hereunder or in connection with the other transactions contemplated hereby or which, in any way, would adversely affect the validity or enforceability of this Agreement.

Notwithstanding the foregoing, the Town makes no representation or warranty in this Section 6.2 concerning the Town's title to the Expansion property, the suitability of the Expansion property for landfill development purposes, nor the availability/ability to obtain any permits, licenses, authorizations or approvals required in connection therewith pursuant to applicable laws.

ARTICLE 7 - VIOLATIONS AND EVENTS OF DEFAULT

7.1. Violations. The Town and SHL agree that, except where there is an Event of Default as specifically set forth herein, dispute resolution or legal or equitable enforcement of this Agreement as provided in Sections 7.3 and 7.4 below will be adequate remedies for a breach of this Agreement and that, absent an Event of Default, neither party to this Agreement will be able to terminate this Agreement due to a breach by the other. In the event of a violation of any term or condition of this Agreement other than an Event of Default, the party alleging breach shall provide written notice to the other party explaining the violation in reasonable detail, and the party alleged to be in breach shall within fifteen (15) days of receipt of the notice either cure the violation or, if the violation is disputed, provide notice to the other party explaining the dispute. In the event of a dispute over the existence of a violation, the parties may, but are not required to, elect to proceed to dispute resolution pursuant to Section 7.4. Pending final resolution of any claim, including litigation, the parties shall diligently continue to perform their obligations as required by this Agreement.

7.2. Events of Default. An Event of Default will be deemed to have occurred if any of the following events occurs during the Term and continues for seventy-five (75) days after receipt of written notice from the Town containing reasonable detail of the allegation of default:

(i) SHL fails to make more than \$250,000.00 in monetary payments that are required to be paid by SHL to the Town under this Agreement;

(ii) SHL fails to maintain or delays any FAM or any MSE Berm FAM that SHL is required to maintain under this Agreement, except to the extent that MassDEP has agreed to or authorized any delay in the maintenance of any FAM or MSE Berm FAM (any cure period applicable to this Section 7.2(ii) shall be equal to that cure period prescribed by MassDEP even if greater than seventy-five (75) days provided that only the longer cure period will apply);

(iii) SHL fails to accept more than 500 tons of Town waste presented by the Town for disposal at the Landfill (specifically that described at Section 3.6(ii), (iii) or (iv) above) at the Landfill in any calendar year pursuant to Section 3.6;

(iv) SHL files, or consents to the filing against it of, a petition for relief or reorganization or any other petition in bankruptcy or insolvency, or there is filed against SHL an involuntary petition in bankruptcy or reorganization or for liquidation, or if SHL makes an assignment for the benefit of its creditors, or if any petition for any such relief shall be filed against SHL;

provided, however, that such applicable cure period will be extended for the period of time during which SHL in good faith contests the Town's notice pursuant to the dispute resolution provisions in Section 7.4, or for such period of time as is reasonably necessary to cure any default that is not susceptible of a cure within such applicable cure period (or longer period as may be allowed by Section 7.2(ii)), assuming that best efforts are applied to resolving the default, provided that the defaulting party must actively and continuously pursue the remedy. For any monetary dispute, SHL will immediately pay to the Town all amounts not in dispute; and provided further that the failure of SHL to accept Town solid waste for disposal at the Landfill will not constitute an Event of Default in subsection (iii) above if SHL transfers, transports and disposes of such Town solid waste from the Landfill under the same terms and conditions as set forth in Section 3.7 of this Agreement. The Town shall incur no costs for any such transfer, transport or disposal of solid waste.

7.3. Remedies.

(i) Should an Event of Default occur and remain uncured through any applicable cure period, the Town may terminate this Agreement by written notice to SHL and may require SHL to vacate and surrender possession of the Landfill, in which case the Term of this Agreement shall be construed to expire at the time of termination.

(ii) For either a violation addressed in Section 7.1 or an Event of Default addressed in 7.2, the parties may exercise all remedies available in contract, at law, or in equity. Any actions or proceedings may include claims for direct damages, including all costs and expenses reasonably incurred, but the parties specifically waive any claim for special, incidental, punitive, indirect or consequential damages (other than payment obligations).

7.4. Dispute Resolution and Enforcement. Either party may request non-binding mediation of any dispute arising from this Agreement, including any allegation of violation pursuant to Section 7.1, provided that the parties will participate in non-binding mediation at the request of any one party if there is a dispute about the existence of an Event of Default.

(i) When a party requests mediation of a dispute, it must send a written notice to the other party, specifying the particular provisions of this Agreement and the particular facts with respect to which a dispute exists and setting forth, in brief, the position of the requesting party. The receiving party must

reply within five (5) business days of receipt of the notice indicating whether it will agree to non-binding mediation. If an Event of Default is alleged, a request for mediation will require an affirmative reply.

(ii) If the parties proceed with non-binding mediation, the president of SHL and the Town Administrator or Chairperson of the Selectboard of the Town (together, the "Designated Officers") will meet with all reasonable dispatch at a time and place reasonably selected by them. Without limiting their discretion, it shall, for purposes of this paragraph, be reasonable if the time will be within ten (10) business days of the initial request and if the place shall be within the Town.

(iii) The meeting between the Designated Officers may be attended by such staff or consultants as each party deems appropriate. Each party shall be given an opportunity to state its position, the requesting party to have the first opportunity to do so. The Designated Officers shall discuss whether they believe that there is a basis for resolution of the matter, with or without the assistance of an independent mediator. Either party may at any time thereafter state its intention to request the assistance of an independent mediator. Thereupon that party shall, within five (5) business days of the initial meeting, deliver to the other a proposed list of at least three candidates for mediator, each of whom shall be a professional engineer or an attorney and none of whom (or whose employers or firms) shall have any current or on-going relationship to the proposing party. Unless the receiving party shall reject every candidate for reasonable cause, such receiving party shall select one of the candidates and that candidate shall be mediator for the matter. If the receiving party rejects every candidate for reasonable cause, the receiving party shall, within five (5) business days, propose three different candidates and the process shall be repeated until a mediator is selected.

(iv) The mediator selected shall have full discretion as to the conduct of the mediation in an expedited manner and each party shall in good faith participate in the mediator's program to resolve the dispute until and unless either the parties reach agreement with respect to the disputed matter or one party determines in good faith that there is no reasonable likelihood that a resolution will result.

(v) Mediation is intended to assist the parties in dispute resolution. No mediator shall be empowered to render a binding decision and neither party shall be required to agree to a settlement that it in good faith believes is contrary to a correct interpretation of the Agreement. Each party shall bear its own expenses arising out of any mediation under this Agreement and the parties shall split equally the cost of the mediator.

Following the conclusion of any mediation, or in the absence of mediation, either party may bring an action with respect to enforcement of this Agreement or to seek declaratory judgment on its terms, in either the appropriate Superior Court for the Commonwealth or the United States District Court for the District of Massachusetts, sitting in Springfield, Massachusetts. Judicial proceedings held in Massachusetts state or federal courts as provided in this paragraph will be the sole forum for judicial resolution of disputes. Each party waives the right to a trial by jury.

7.5. Special Liquidated Damages Provisions for Cell 2B.

(i) The parties agree that the provision of certain benefits by SHL to the Town relating to Cell 2B involve the performance of essential functions upon which the Town has placed great reliance, and that the Town's monetary damages in the event of non-performance would be difficult or impossible to ascertain. Consequently, this Section 7.5 applies only to SHL's provision of services to the Town relating to Cell 2B. Notwithstanding the provisions of Section 7.2 and 7.4, if there should occur an Event of Default by SHL arising from its commitments in Section 3.6(ii)(A), (iii) and (iv) of this Agreement to provide waste disposal to the Town in Cell 2B ("Section 3.6 Cell 2B Event of Default"), SHL shall be obligated to pay the Town, as liquidated damages, the following amounts for each day that such default

continues, through and including December 31, 2010. Liquidated damages would cease to accrue on a daily basis as of December 31, 2010. Said liquidated damages have been estimated and agreed to by the parties in order to place the Town in the same economic position it would have been in had such an Event of Default not occurred.

- A. For any such Event of Default occurring in 2008, \$1,849.32 per calendar day in 2008 (\$675,000.00 annualized);
- B. For any such Event of Default occurring or continuing in 2009, \$1,886.30 per calendar day in 2009 (\$688,500 annualized); and
- C. For any such Event of Default occurring or continuing in 2010, \$1,924.03 per calendar day in 2010 (\$702,270 annualized).

(ii) Liquidated damages payable under this Section 7.5 shall constitute the only damages payable by SHL upon any Section 3.6 Cell 2B Event of Default. The obligation to pay such liquidated damages shall not impair or limit SHL's obligations to the Town for any other Event of Default that is not expressly addressed in this paragraph.

(iii) Liquidated damages shall be payable by SHL following the occurrence of a Section 3.6 Cell 2B Event of Default pursuant to Section 7.2 of this Agreement. In the event that the Section 3.6 Cell 2B Event of Default shall continue beyond thirty days in duration, SHL shall pay the required liquidated damages within seven (7) days of the end of each calendar month during which the Section 3.6 Cell 2B Event of Default continues. Any failure to pay such liquidated damages by SHL shall be considered a separate Section 3.6 Cell 2B Event of Default under this Agreement. Notwithstanding any other provision of this Agreement, the Town may seek to enforce any non-payment of liquidated damages by bringing an action in the Massachusetts Superior Court, Hampshire County. SHL agrees to submit to, and waives any objection it might have challenging, the jurisdiction of that court for such purpose.

(iv) The liquidated damages provided for in this Section 7.5 will not become due and payable if SHL fully complies with the provisions set forth in Section 3.7 above. Provided that SHL is able to utilize for permitted Landfill operation and closure activities (i.e., for solid waste disposal and cover materials, but excluding capping materials) 396,000 cubic yards of air space in Cell 2B, the failure of SHL to fully comply with the provisions set forth in Section 3.7 shall not be excusable as an Uncontrollable Circumstance.

ARTICLE 8 - INDEMNIFICATION

8.1. Indemnity. SHL shall indemnify, defend, and hold harmless the Town and its officers, employees, and agents from and against any and all claims of any sort arising from or related in any way to the performance by SHL of this Agreement, or claims for injury to person, property, including diminution of the value of property, or for the threat of injury or harm to person or property, all with respect to the Landfill and the Town's property on which the Landfill is and may become situated, regardless of whether the claim is for damages or for other relief related to such damages, or for a combination thereof, or otherwise, and SHL shall reimburse the Town all costs incurred by the Town in defense of such claims, including, but not limited to, its reasonable attorney's fees and expenses, and any and all payments made by the Town in full or partial satisfaction of such claims. Notwithstanding the foregoing, SHL shall not be liable for any liability arising from, or related in any way to, and the Town shall indemnify SHL to the extent authorized by law for any claims arising from (i) the acts or omissions of the Town and its officers, employees or agents, but only to the extent of its liability pursuant to M.G.L. c. 258, and (ii) conditions existing at the Landfill on or before August 22, 1995, including without

limitation any hazardous waste in the Unlined Landfill, unless such liability shall arise from SHL's negligence or breach of its obligations under this Agreement.

8.2. Third Party Property Claims. In the event of a claim by a third party that the value of his property has been diminished as a result of the construction, operation, or maintenance of any facility or service under this Agreement, SHL shall indemnify, defend, and hold the Town harmless for such claim, and SHL shall submit to arbitration of that claim upon request to do so by the claimant. This provision is intended to create a procedural right to arbitration and does not create any substantive right to recovery.

ARTICLE 9 - UNCONTROLLABLE CIRCUMSTANCE

9.1. Uncontrollable Circumstance. If either party is rendered unable, wholly or in part, to carry out any material obligation of this Agreement by an Uncontrollable Circumstance, the affected obligation of such party may be suspended during the continuation of the Uncontrollable Circumstance, provided that such party will use all reasonable efforts to perform its obligations notwithstanding the occurrence of such event. Such excuse of performance may occur only to the extent that the Uncontrollable Circumstance prevents such party from performing and such party must continue to perform all other responsibilities in this Agreement. The party claiming inability to perform shall use all reasonable efforts to overcome or remove the Uncontrollable Circumstance.

9.2. Notice of Uncontrollable Circumstance. Any party claiming inability to perform due to an Uncontrollable Circumstance will provide prompt written notice of the Uncontrollable Circumstance to the other party along with a description of the steps it will take to remedy the inability and the expected duration of the impediment.

ARTICLE 10 - PROVISIONS AS TO WASTE

10.1. Pre-Existing Hazardous Waste. To the extent that hazardous wastes, as regulated under 42 U.S.C. §§ 6921-6931 and M.G.L. c.21C, and the regulations promulgated under such statutes, are discovered in the Landfill, and it is reasonably determined that such hazardous wastes were in the Landfill prior to August 22, 1995, the Town agrees that if such hazardous wastes are required to be excavated and removed from the Landfill by MassDEP, the Town and not SHL will be responsible for the costs of removal and disposal of such hazardous wastes. Nothing in this section 10.1 should be construed as releasing SHL from any obligation it might otherwise assume in this Agreement to conduct groundwater monitoring or remediation as part of Post-Closure Activities under Section 3.1(x), above, or groundwater treatment under Section 3.4, above. With respect to the removal and disposal of any hazardous wastes, the Town shall be entitled to all reimbursements from any governmental unit on account of, and all insurance payments and all recoveries from potentially responsible parties or other third parties that become payable as a result of, such removal and disposal of such hazardous wastes.

ARTICLE 11 - GENERAL TERMS AND CONDITIONS

11.1. Notices and Consents.

(i) All notices required or authorized to be given by any party shall be in writing and may be served personally or sent by registered or certified mail, return receipt requested, or by nationally recognized express delivery service, charges prepaid, receipt obtained, and in any case shall be addressed as follows:

Town of South Hadley
116 Main Street
South Hadley, MA 01075
Attention: Selectboard

South Hadley Landfill, LLC
12 Industrial Drive
South Hadley, MA 01075
Attention: President

or to such other address as a party may from time to time provide to the other in writing.

(ii) Whenever under the terms of this Agreement, any party is called upon to give its consent, such consent will not be unreasonably withheld, conditioned or delayed, unless otherwise specified.

(iii) All consents required under this Agreement must be in writing. Whenever, under the terms of this Agreement, the Town is authorized to give its consent, such consent may be given and shall be conclusively evidenced only by a writing signed by a majority of its Selectboard, the Town Administrator or the Superintendent, Department of Public Works. Whenever, under the terms of this Agreement, SHL is authorized to give its consent, such consent may be given and shall be conclusively evidenced only by a writing signed by its President. As of the signature date of this Agreement, SHL represents to the Town that its President is Anthony Farina. SHL shall promptly notify the Town in writing whenever there is a change in the person holding the title of President of SHL.

11.2. Assignment. This Agreement is binding upon SHL, the Town, and their authorized successors and assigns. This Agreement may not be assigned by SHL without the written consent of the Town, provided that as a condition of such consent the Town may require that the assignee assume in writing all of the obligations of SHL and demonstrate that it is reasonably capable of performing all such obligations. For purposes of this Section 11.2, the transfer of a majority of the ownership interest in SHL, or the immediate parent company of SHL, shall be considered an assignment of this Agreement. Any assignment or attempted assignment without the Town's consent shall be void. If SHL notifies any lender holding a security interest in the Landfill that such an assignment has been made, SHL will simultaneously notify the Town. Notwithstanding the foregoing, SHL may, without the Town's consent, assign this Agreement as security for an obligation to a lender providing financing for the development, construction and operation of the Landfill as set forth in this Agreement, provided that SHL shall timely notify the Town of any such assignment. The Town will cooperate with SHL in connection with financing and granting of security interests in connection with the development, construction and operation of the Landfill, provided that SHL agrees to pay all reasonable and actual third party expenses incurred by the Town in this regard at the request of SHL.

11.3. No Joint Venture. The Town is the owner of the Landfill and SHL is the designated contract operator of the Landfill. Neither this Agreement nor the relationship between the parties is intended to nor shall ever be construed as creating a legal partnership or joint venture by and between the Town and SHL.

11.4. Severability. If any provision of this Agreement is held to be invalid or illegal or unenforceable for any reason, that invalidity or illegality or unenforceability shall not affect any of the remaining provisions of this Agreement and this Agreement shall be construed as if the invalid or illegal or unenforceable provision had not been contained in this Agreement.

11.5. Execution of Documents. This Agreement may be executed in several counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments, and take such other action as is necessary, to give effect to the terms of this Agreement.

11.6. Waiver. The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of its right to enforce such provision or any other provision in the future. No waiver shall be effective unless it is in writing, signed by an authorized representative of the waiving party, clearly states that the party is waiving a default or performance obligation, and specifically identifies the default or performance obligation that is the subject of the waiver. No oral waivers will be enforceable and a party's purported reliance upon an oral waiver, or a writing not signed by an authorized representative of each party, will be presumed unenforceable. No waiver by any party of any term or condition of this Agreement shall act as a waiver of any other term or condition. No waiver of any breach of this Agreement shall act as a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement. Making payments pursuant to this Agreement during the existence of a dispute shall not act as a waiver of any of the claims or defenses of the Party making the payment.

11.7. Entire Agreement. This Agreement represents the entire understanding between the parties with respect to the subject matter hereof, and supersedes all prior agreements, representations and understandings of the parties. This Agreement may be amended only by written agreement of both of the parties hereto. No oral amendments or modifications will be enforceable and a party's purported reliance upon an oral amendment or modification, or a writing not signed by an authorized representative of each party, will be presumed unenforceable.

11.8. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

11.9. Construction. This Agreement is the result of joint negotiations and authorship and no part of this Agreement shall be construed as the product of any one of the parties hereto.

11.10. Actions of Town in its Governmental Capacity. Nothing in this Agreement shall be interpreted as limiting the rights and obligations of the Town in its governmental or regulatory capacity, except to the extent such limitations are allowable by contract under applicable law.

IN WITNESS WHEREOF, the parties hereto have set forth their hands and seals as of the day and year first written above.

SOUTH HADLEY LANDFILL, LLC

By: _____
Its:

FOR PURPOSES OF SECTION 3.12 ONLY:
INTERSTATE WASTE SERVICES, INC.

By: _____
Its:

ATTEST

Town Clerk

TOWN OF SOUTH HADLEY

By its Selectboard

By: _____

By: _____

By: _____

By: _____

By: _____

Exhibit List

Exhibit A	Plan of land showing Landfill, Phase 1 and Phase 2 Expansions
Exhibit B	Escrow Agreement
Exhibit C	Insurance
Exhibit D	Guaranty

Exhibit A
Plan

Exhibit B

Escrow Agreement

This Escrow Agreement (the “Agreement”), dated as of _____, 2009, is entered into by and among **THE TOWN OF SOUTH HADLEY, MASSACHUSETTS**, a body politic and corporate existing as a political subdivision of the Commonwealth of Massachusetts, acting by and through its Selectboard (the “Town”), **SOUTH HADLEY LANDFILL, LLC**, a limited liability company organized under the laws of the state of Delaware (“SHL”), and _____, a _____, in its capacity as Escrow Agent hereunder (the “Escrow Agent,” which term shall also include any successor escrow agent appointed in accordance with Section 6 hereof).

Reference is made to that Amended and Restated Waste Disposal and Landfill Operation Agreement, dated as of _____, 2009 (the “Landfill Agreement”) by and between the Town and SHL, providing for, among other things, the development and operation of a landfill in the Town of South Hadley. All capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Landfill Agreement.

NOW, THEREFORE, in consideration of the Town and SHL entering into the Landfill Agreement, and in consideration of the agreements contained in the Landfill Agreement and herein, the parties agree as follows:

1. Appointment of Escrow Agent. The Escrow Agent is hereby appointed to act as escrow agent hereunder and the Escrow Agent agrees to act as such. The Town and SHL each represents and warrants that it has no banking or commercial relationship with the Escrow Agent.

2. Escrow Fund and Escrow Account.

(a) In accordance with Section 5.2(ii) of the Landfill Agreement and subject to the provisions of the Landfill Agreement, it is contemplated that (i) the Town will provide a one-time payment of certain Post-Closure Fees to the Escrow Agent, and (ii) SHL will provide successive additional monthly payments of a Post-Closure Fee to the Escrow Agent, and the Escrow Agent will accept such funds and hold and disburse them pursuant to this Agreement. The funds so deposited with the Escrow Agent by the Town and SHL, and all interest, distributions or other income or capital appreciation accumulated thereon, shall be hereinafter referred to, collectively, as the “Escrow Fund”.

(b) The Escrow Agent shall establish a segregated account (the “Escrow Account”), accessible at its office located at the address for the Escrow Agent designated in Section 8, in which to hold the Escrow Fund. The Escrow Agent shall invest and reinvest funds in the Escrow Account in such amounts and maturities as shall be reasonable and prudent for the preservation of the Escrow Fund, provided that such investments may only be comprised of: (i) direct obligations of the United States of America or obligations for which the full faith and credit of the United States of America is pledged to provide for the payment of principal and interest, (ii) certificates of deposit issued by a commercial bank or banks having at least \$45,000,000,000 in total assets, (iii) investments in institutional money market mutual funds investing principally in obligations permitted by clauses (i) and (ii) above, or (iv) investments as may be mutually agreed upon by the Town and SHL). No funds in the Escrow Account shall be invested in any obligation or instrument having a maturity which exceeds one (1) year from the date of purchase, unless the Escrow Agent has same-day or next-day availability.

(c) The Escrow Agent acknowledges that it has no interest in the Escrow Fund, that the Escrow Fund is not subject to any claim or right of set-off that the Escrow Agent may now or subsequently have against the Town or SHL, and that the Escrow Fund is to be held for the benefit of the Town and SHL in accordance with this Escrow Agreement.

(d) The Escrow Agent shall have the power to reduce, sell or liquidate the foregoing investments whenever the Escrow Agent shall be required to release amounts from the Escrow Fund pursuant to Section 4 below.

(e) In accordance with the Landfill Agreement, all income, distributions, interest and other income accumulation earned on the Escrow Fund shall remain in the Escrow Fund until the Escrow Fund is distributed as set forth in Section 4 below. For purposes of Federal and state income taxes, the Town will be deemed to have earned all income earned on the Escrow Fund until such time as either (i) SHL receives an Authorization to Operate the Landfill Phase 2 Expansion having a waste disposal capacity of at least 2 million cubic yards, or (ii) SHL elects in writing to assume all responsibilities for Post-Closure Activities for the Landfill, all pursuant to Section 3.1(x) of the Landfill Agreement, at which time SHL shall be deemed to have earned all future income earned on the Escrow Fund. The parties agree to supply the Escrow Agent with information so as to enable the Escrow Agent to forward applicable tax information to the appropriate party.

(f) The Escrow Agent shall prepare and provide to the Town and SHL monthly statements of the amounts and activity in the Escrow Fund.

3. Rights to the Escrow Fund. The Escrow Fund shall be for the exclusive benefit of the Town and SHL and their respective successors and assigns, as provided herein and in the Landfill Agreement, and no other person or entity shall have any right, title or interest therein.

4. Distribution of the Escrow Fund. The Escrow Agent shall continue to hold the Escrow Fund in its possession until authorized hereunder to distribute the Escrow Fund. The Escrow Agent shall distribute the Escrow Fund as follows:

(a) Upon receipt of written notice and instruction to the Escrow Agent jointly executed by the Town and SHL, the Escrow Agent shall promptly make payment/disbursement as so instructed.

(b) All written notices to the Escrow Agent seeking disbursements from the Escrow Fund shall be executed by the Town and SHL, and shall be delivered jointly or in counterparts, and by original signature, or facsimile followed by delivery of original signature.

(c) The Escrow Fund shall be distributed, as the case may be, strictly in accordance with this Section 4. No portion of the Escrow Fund is to stand as security for, or otherwise be withheld or disbursed to compensate for, any claim that either party may have against the other.

(d) Each of SHL and the Town agrees to promptly execute written notices to the Escrow Agent provided for in this Section 4, which obligation may be enforced in a court of equity by the bringing of an action seeking specific performance.

5. Termination. This Agreement shall automatically terminate if and when all property in the Escrow Account shall have been distributed by the Escrow Agent in accordance with the terms of this Agreement.

6. Rights and Duties of the Escrow Agent.

(a) The Escrow Agent shall have and may exercise such powers hereunder as are specifically delegated to the Escrow Agent by the terms hereof, together with such powers as are reasonably incidental thereto, including the power to hire attorneys to represent the Escrow Agent with respect to matters arising from this Agreement and the Escrow Agent shall have no implied duties or any obligation to take any action hereunder except for any action specifically provided by this Agreement to be taken by the Escrow Agent. The Escrow Agent shall not be required to deliver the property in the Escrow Fund or any part thereof or take any action with respect to any matters that might arise in connection therewith, other than to receive, hold, and make delivery of the property in the Escrow Fund as herein provided or by reason of an order of a court of competent jurisdiction from which no appeal may timely be taken. The Escrow Agent shall not be liable to any party hereto for any action taken or omitted to be taken hereunder or in connection herewith except for its own gross negligence, bad faith or willful misconduct. The Escrow Agent shall be fully justified in failing or refusing to take any action under this Agreement unless it shall first be indemnified to its reasonable satisfaction against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Escrow Agent may execute any of its duties hereunder by or through employees, agents and attorneys-in-fact.

The duties and obligations of the Escrow Agent shall be limited to and determined solely by the express provisions of this Agreement and no implied duties or obligations shall be read into this Agreement against the Escrow Agent.

The Escrow Agent is not bound by and is under no duty to inquire into the terms or validity of any other agreements or documents, including any agreements or documents which may be related to, referred to in or deposited with the Escrow Agent in connection with this Agreement.

(b) The Escrow Agent shall have the right to resign after first having given the Town and SHL notice in writing of its intent to resign at least thirty (30) days in advance. At the expiration of such thirty days, the Escrow Agent shall deliver the property in the Escrow Fund to a successor Escrow Agent (which shall be a nationally recognized banking institution that does not hold deposits of the Town or SHL) designated in writing by the Town and SHL. If the Town and SHL fail to designate a successor to the Escrow Agent within such thirty day period, the Escrow Agent may institute a bill of interpleader hereof and shall thereafter be deemed to be solely a custodian of the property in the Escrow Fund without further duties hereunder.

(c) If any property subject hereto is at any time attached, garnished or levied upon, under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court of competent jurisdiction from which no appeal may timely be taken affecting such property, or any part thereof, then in any of such events, the Escrow Agent is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree, which it is advised by legal counsel of its own choosing is binding upon it, and if it complies with any such order, writ, judgment, award or decree, it shall not be liable to any of the parties hereto or to any other person or entity by reason of such compliance, even through such order, writ, judgment, award or decree may be subsequently reversed, modified, annulled, set aside or vacated.

(d) The Escrow Agent shall be entitled to rely upon the accuracy of, act in reliance upon the contents of, and assume the genuineness of any notice which is given to the Escrow Agent pursuant to this Agreement and believed by it to be genuine and correct and to have been signed or sent by the proper person, without the necessity of the Escrow Agent verifying the truth or accuracy thereof. The Escrow

Agent shall not be obligated to investigate or in any way determine whether any party to the Landfill Agreement is entitled to all or any portion of the property in the Escrow Fund.

In the event that the Escrow Agent shall be uncertain as to its duties or rights hereunder or shall receive instructions with respect to the Escrow Fund which, in its sole discretion, are in conflict either with other instructions received by it or with any provision of this Agreement, the Escrow Agent shall so notify the Town and SHL and shall have the absolute right to suspend all further performance under this Agreement (except for the safekeeping of the property in the Escrow Account) until the resolution of such uncertainty or conflicting instructions to the Escrow Agent's sole satisfaction by final judgment of a court of competent jurisdiction, joint written instructions from the parties hereto, or otherwise.

(e) Should any controversy arise between or among the Town or SHL, or any other person, firm or entity, with respect to this Agreement, the Escrow Fund, or any part thereof, or the right of any party or other person to receive the property in the Escrow Fund, or should the Town and SHL fail to designate another Escrow Agent, or if the Escrow Agent should be in doubt as to what action to take, the Escrow Agent shall have the right (but not the obligation) to (i) withhold delivery of the property in the Escrow Fund until the controversy is resolved, or (ii) institute a bill of interpleader in any court of competent jurisdiction to determine the rights of the parties hereto (the right of the Escrow Agent to institute such bill of interpleader shall not, however, be deemed to modify the manner in which the Escrow Agent is entitled to make disbursements of the property in the Escrow Account as hereinabove set forth other than to tender the property in the Escrow Fund into the registry of such court).

(f) The Escrow Agent shall be compensated in the amount of \$ _____ per year for the ordinary administrative services to be rendered hereunder, which amount may be withdrawn from the Escrow Account by the Escrow Agent on or about June 15 of each year, following written notice from the Escrow Agent to the Town and SHL. The Town and SHL shall split equally all other fees and expenses of the Escrow Agent, including reasonable attorney' fees and expenses, if any, which it may incur in connection with the performance of its duties under this Agreement.

(g) The Town and SHL agree jointly and severally to indemnify the Escrow Agent and hold it harmless from and against any loss, liability, expense (including, without limitation, reasonable attorneys' fees and expenses), claim or demand arising out of or in connection with the performance of its obligations in accordance with the provisions of this Agreement, except for the gross negligence or willful misconduct of the Escrow Agent. These indemnities shall survive the resignation of the Escrow Agent or the termination of this Agreement.

7. Disputes. If any dispute should arise with respect to the payment or ownership or right of possession of the property in the Escrow Fund, or the duties of the Escrow Agent hereunder, the Escrow Agent is authorized and directed to retain in its possession, without liability to anyone, all or any part of the property in the Escrow Fund until such dispute shall have been settled either by mutual agreement of Town and SHL (evidenced by appropriate instructions in writing to the Escrow Agent signed jointly by Town and SHL) or by the final order, decree or judgment of a court of competent jurisdiction in the United States of America (the time for appeal having expired with no appeal having been taken) in a proceeding to which Town and SHL are parties, but the Escrow Agent shall be under no duty whatsoever to institute or defend any such proceedings. In the event of any dispute between or among any of the parties to this Agreement, or between or among them or any of them and any other person, resulting in adverse claims or demand being made upon the property in the Escrow Fund, or in the event that the Escrow Agent, in good faith, is in doubt as to what action it should take hereunder, the Escrow Agent may, at its option, file a suit in interpleader in a court of competent jurisdiction, or refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such dispute shall continue or such doubt shall exist. The Escrow Agent shall be entitled to continue so to refrain from

acting until (a) the rights of all parties have been fully and finally adjudicated by the final order, decree or judgment of a court of competent jurisdiction in the United States of America (the time for appeal having expired with no appeal having been taken) or (b) all differences shall have been resolved and all doubt resolved by agreement among all of the interested persons, and in each case the Escrow Agent shall have been notified thereof in a writing signed by all such persons.

8. Miscellaneous.

(a) Notices. All notices, claims, certificates, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or if sent by telecopier, nationally-recognized overnight courier or by registered or certified mail, return receipt requested and postage prepaid, addressed as follows:

If to the Town, to:

Town of South Hadley
116 Main Street
South Hadley, MA 01075
Attention: Selectboard

If to SHL, to:

South Hadley Landfill, LLC
12 Industrial Drive
South Hadley, MA 01075
Attention: President

If to Escrow Agent, to:

or such other address as the party to whom notice is to be given may have furnished to the other parties hereto in writing in accordance herewith. Any such notice or communication shall be deemed to have been received (a) in the case of personal delivery, on the date of such delivery, (b) in the case of delivery by telecopier, upon telephonic communication of receipt, (c) in the case of nationally recognized overnight courier, on the next business day after the date when sent (d) in the case of electronic mail delivery, upon confirmation of receipt by return electronic mail or other means, and (e) in the case of mailing, on the second business day following that on which the piece of mail containing such communication is posted.

(b) Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(c) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts applicable to agreements made and to be wholly performed within such Commonwealth.

(d) Severability. The invalidity or unenforceability of any particular provisions of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted. Upon any determination that any term or other provision is invalid, unlawful or incapable of being enforced, the parties hereto will negotiate in good faith to modify this Agreement so as to effect the original intention of the parties as closely as possible in an acceptable manner.

(e) Parties in Interest. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and assigns. Anything contained herein to the contrary notwithstanding, this Agreement shall not be assigned by any party hereto without the written consent of the other parties hereto. The Escrow Agent may not assign this Escrow Agreement or delegated any of its duties hereunder without the prior written approval of SHL and the Town, which approval shall be granted to denied in their sole discretion, acting jointly.

(f) Amendments. This Agreement may be amended only by a written instrument duly executed by the parties hereto.

(g) Headings. This section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(h) Specific Performance. If any party refuses to comply with, or at any time violates or attempts to violate, this Escrow Agreement, any other party hereto may, by injunctive action, compel the defaulting party to comply or refrain from such violation. In connection with any such action, each party hereby waives the claim or defense that an adequate remedy exists at law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered on the date first above written.

TOWN OF SOUTH HADLEY

By: _____
Title: _____

SOUTH HADLEY LANDFILL, LLC

By: _____
Title: _____

Accepted And Agreed to
as of the Date First Written
Above

ESCROW AGENT:

By: _____
Name:
Title:

Exhibit C

Insurance

1. Commercial General Liability Insurance:
 1. Bodily Injury & Property Damage: \$1,000,000 CSL
 2. Personal and Advertising Injury: \$1,000,000 CSL
 3. Products and Completed Operations Aggregate: \$5,000,000
 4. General Aggregate: \$5,000,000
 5. Contractual Liability:

2. Automobile Liability Insurance:
 1. Bodily Injury and Property Damage: \$1,000,000 CSL
 2. Covered Automobiles: \$1,000,000 CSL
 - a. Owned Automobiles
 - b. Hired Autos
 - c. Non-Owned Autos
 3. Worker's Compensation Insurance:
 - a. Coverage "A" Commonwealth of Massachusetts
 - b. Coverage "B" \$1,000,000/Insuring Agreement.

Except for the Worker's Compensation Insurance coverage, the Town shall be named as an Additional Insured on the above-listed insurance policies.

Said insurance shall provide for thirty (30) days prior written notice to the Town of cancellation, material change in coverage or intention not to renew.

All insurance shall be provided on the so-called "Occurrence Form" of coverage.

The policies of insurance shall expressly provide that the insurer waives claims of subrogation against the Town including, but not limited to, claims of subrogation for property damage, personal injury, medical payments, workman's compensation, and any liens arising as a result of payments of such claims. Such insurance shall include contractual liability insurance, including coverage for SHL's obligation to indemnify and hold harmless the Town, if reasonably available.

3. Environmental Impairment Insurance:

SHL shall maintain environmental impairment insurance, if reasonably available, which shall cover all claims arising from or related to harm or threat of harm to the environment, whether or not such harm may relate to public or private property, or to the public health or personal injury, and shall include among covered claims those claims for actual injury to persons or property, as well as those claims for the cost of preventing such injury, including claims which seek to compel SHL, the Town, or any other insured party to undertake such cost for preventing such injury. Such insurance shall be maintained throughout the Term. SHL shall annually provide the Town with a certificate of insurance certifying such coverage and certifying compliance with the following terms. That coverage shall not be canceled except

upon thirty (30) days notice to the Town. The Town shall be named as an additional insured on such policy.

The policy shall expressly provide that the insurer waives all claims of subrogation against the Town for payment under the policy.

The Town may, in its sole discretion, accept as sufficient a policy which provides some, but not all, of the coverage terms or amounts required by this provision, if the coverage required is not reasonably available.

The mandatory minimum amount of coverage shall be Five Million Dollars (\$5,000,000) per occurrence.

Exhibit D

GUARANTY

This GUARANTY (as amended, restated, supplemented or otherwise modified in accordance with its terms, the “Guaranty”) is made this _____ day of _____, 2009, by Interstate Waste Services, Inc., a New York corporation (“Parent Company”), in favor of the Town of South Hadley, Massachusetts (the “Town”).

RECITALS

- A. WHEREAS, SHL is a party to an agreement with the Town entitled Amended and Restated Waste Disposal and Landfill Operation Agreement between South Hadley Landfill, LLC and the Town of South Hadley, Massachusetts, dated _____, 2009 (the “Agreement”).
- B. WHEREAS, Parent Company is a parent company to SHL, and has a business interest in the financial success of SHL and in its performance under the Agreement.
- C. WHEREAS, the Town has insisted that SHL provide financial assurance of its ability to perform the many undertakings set forth for it in the Agreement.
- D. WHEREAS, the Town has agreed that a financial Guaranty of payment and performance from Parent Company to the Town will provide adequate financial assurance to allow for the execution of the Agreement.
- E. WHEREAS, Parent Company will receive submittal benefit from the execution and delivery of the Agreement.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which Parent Company hereby acknowledge, Parent Company hereby agrees to be legally bound as follows:

1. Guaranty. Pursuant to Section 3.12 of the Agreement, Parent Company hereby guarantees to the Town the prompt payment and performance of each and every obligation of SHL under the Agreement. This Guaranty shall be terminated upon the indefeasible payment and performance of all of obligations of SHL under the Agreement.
2. Waivers. Parent Company hereby waives presentment, demand, protest, notice and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Guaranty. Parent Company hereby agrees that this Guaranty will not be affected, impaired or released by (a) any waiver, amendment or modification of any provision of the Agreement in accordance with their terms, (b) any failure or delay by the Town in exercising its rights under the Agreement or this Guaranty or any waiver by the Town of any of its rights under the Agreement or (c) any change in the beneficial ownership of SHL. The liability of Parent Company shall not be contingent or conditioned upon pursuit by the Town of any remedies against SHL. Notwithstanding the foregoing, Parent Company does not waive and shall be entitled to assert any defenses that would be available to SHL under the terms of the Agreement; provided that Parent Company shall not have, and shall not be entitled to assert, any defense to the obligations under this Guaranty or under the Agreement arising from the bankruptcy, liquidation, dissolution, merger, receivership or insolvency of SHL.

3. Representations and Warranties: Parent Company represents and warrants that this Guaranty (a) has been duly authorized by all necessary corporate action on the part of Parent Company, (b) does not require any approval or consent not already obtained by Parent Company, and (c) constitutes the legal, valid and binding obligation of Parent Company, enforceable in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency and similar laws or equitable principles affecting creditors' rights generally).

4. Severability. If any provision of this Guaranty shall be determined to be invalid or unenforceable (whether generally or as applied to any person or circumstance), such invalidity or unenforceability shall, to the greatest extent permitted, not affect the other provision of this Agreement.

5. Amendment or Modification. This Guaranty may be amended or modified from time to time only by a written instrument executed by Parent Company and the Town.

6. Assignment. Parent Company may not assign its obligations hereunder without prior written consent of the Town.

7. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to the choice of law provisions thereof.

IN WITNESS WHEREOF, Parent Company has caused this Guaranty to be executed and delivered by its duly authorized officer on the date first written above.

INTERSTATE WASTE SERVICES, INC.

By: _____

Name: _____

Title: _____