The Franchisee shall provide this service to Dwelling Units as are designated by the Franchisor that are located in the Service Area. This service shall be provided at least once every week on a scheduled route basis as set out in paragraph 2 below.

(2) **Accessibility and Schedule for Containerized Residential Recycling Collection:**

All Recyclable Materials to be collected shall be in a Recycling Container or Container designated for Recyclable Materials which shall be located in such location and shall be collected on a schedule by the Franchisee that will provide a safe and efficient accessibility to the Franchisee's collection crew and vehicle. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for pick-up.

C. **Commercial Recycling Collection Service:**

The Franchisee shall perform Commercial Recycling Collection Services on behalf of the Franchisor for any business in the Service Area where the Franchisee has arranged, negotiated or contracted for such service, and Franchisee shall have the right to solicit Commercial Recycling Collection Service agreements with any business in the Service Area upon terms and conditions consistent with this Agreement, and Franchisee shall provide loading, collection, transporting and removal services for recovered materials in the Service Area.

(1) **Conditions and Frequency of Service:**

The Franchisee shall provide Commercial Recycling Collection Services to all business or commercial entities located in the designated Service Area resulting from its own solicitation. The size and frequency of the Container designated for Recyclable Materials shall be determined between the customer and the Franchisee. However, size and frequency shall be sufficient to provide that no Recyclable Materials need be placed outside the Container. Storage capacity shall be suitable for the amount of recyclables generated by the customer. The Franchisee shall provide Containers as necessary. Compactors may be obtained by customers from any source provided that such Compactor must be of a type that can be serviced by the

Franchisee's equipment and the customer shall be completely responsible for its proper maintenance. Compactor frequency of collection shall be sufficient to contain the waste without spillage. All Commercial Recyclable Materials shall be placed in a Container, Compactor or other acceptable Recycling Container. Recyclable Material shall not be commingled with other solid waste. Where Recycling Containers are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Franchisee and the customer. All Containers shall be kept in a safe, accessible location agreed upon between the Franchisee and the customer. Any Container or Recycling Container damaged by the Franchisee shall be repaired or replaced by the Franchisee within seven (7) days.

(2) **Level, Type and Disclosure of Rates for Commercial Recycling Collection and Other Services:**

A written Agreement between the Franchisee and the customer shall be entered into regarding the level and type of service to be provided and manner of collection of fees. The terms and conditions of such Agreement shall be in compliance with all provisions of this franchise Agreement and the term shall not extend beyond the term of this Agreement as stated in Section 1. The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an Agreement, the Contract Administrator, or his designee, at the election of the customer and Franchisee may establish the level and type of service to be provided including the location, size of the Container and number of pick-ups per week and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit II. The Franchisee will be responsible for the billing and collection of Commercial Recycling Collection charges except as otherwise provided in this Agreement. The written Agreement between the Franchisee and the customer shall be as specified in Exhibit III.

In the event the same vehicle is used to collect residential recyclable materials and commercial recyclable materials, the burden is on the Franchisee to verify and demonstrate which portion of the load, by volume at the point of collection, is from commercial entities.

(3) **Ownership:**

Notwithstanding any other provision of this Agreement, a commercial generator of Recyclable Materials retains ownership of those materials until he or she donates or sells, or contracts for the donation or sale of those materials to another person or entity. Nothing in this Agreement shall prevent a person or entity engaged in the business of recycling, whether for profit or non-profit, from accepting and transporting Recyclable Materials, under contract with a commercial generator, from such commercial generator when such Recyclable Materials have been purchased from or donated by the commercial generator, and no charge is made to or paid by the commercial generator for the loading, collection, transporting or removal of such Recyclable Materials. Provided, however, that such activities are subject to applicable state and local public health and safety laws, and provided that the transporter must report such information to the Franchisor as may be necessary for the documentation of state mandated recycling or reduction goals.

D. **Method of Payment:**

The Franchisor will be responsible for the billing and collection of payments for Residential Recycling Collection Service. Payments from the Franchisor to the Franchisee will be due and paid no later than the tenth day of the month following service. The initial collection rate per unit per month shall be as set out in Exhibit II. This rate shall be adjusted in subsequent years in accordance with Section 6.

The Franchisee shall be responsible for billing and collection of payments for Commercial Recycling Collection Service, at the rates as set out in Exhibit II. The rates set out in Exhibit II shall be adjusted in subsequent years in accordance with Exhibit IV.

E. **Hours of Collection:**

Residential Recycling Collection Service shall be conducted between the hours of 5:00 a.m. and 6:00 p.m., Monday through Saturday. Dwelling Units receiving Containerized Residential Recycling Collection Service and non-residential collection sites located adjacent to residential units shall be considered residential collection and shall only be collected between the hours of 5:00 a.m. and 6:00 p.m. Monday through Saturday. In the event

of a dispute, the Contract Administrator shall determine the hours of collection.

F. **Routes and Schedules:**

The Franchisee shall provide and keep current with the Contract Administrator or his designee, in a format acceptable to the Contract Administrator, an up-to-date route schedule map for all Residential Recycling Collection Service routes. The Franchisee shall notify the Contract Administrator in writing of any change in any route schedule four weeks prior to change. In the event of a permanent change in the routes or schedules that will alter the pick-up day, the Franchisee shall immediately notify the affected customer in writing or other method approved by the Contract Administrator not less than two (2) weeks prior to the change, at no cost to the Franchisor.

G. **Replacement of Recycling Containers for Residential Dwelling Units:**

(1) The Franchisee will replace at its expense any Recycling Container damaged through the fault or negligence of the Franchisee or its employees.

H. **Manner of Collection:**

The Franchisee shall collect Recyclable Materials with as little disturbance as possible and shall leave the Recycling Container or Container housing Recyclable Materials at the same point it was collected. To be eligible for Curbside Residential Recycling Collection Service, Recyclable Materials must be put in a Recycling Container. Newspapers that cannot be placed in the Recycling Container may be put in a paper (kraft) bag and placed at the usual accessible pick-up location for Curbside Residential Solid Waste Collection. All Recyclable Materials set out by the customer that meet these criteria shall be collected.

I. **Material Recycling Facility:**

The Franchisee shall deliver all Recyclable Materials collected from the Service Area to the facility designated, in writing, by the Contract Administrator. The Franchisee is responsible for the delivery of clean, non-contaminated Recyclable Materials. Contaminated materials are defined as those materials that require extensive sorting and/or disposal as determined

by the supervisor of the County's recycling facility.

J. **Change in Scope of Recycling Collection Service:**

From time to time, at the sole option of the Franchisor, it may be necessary to modify the scope of Recyclable Materials that will be included in Recycling Collection Service. Should this occur, the Franchisor and the Franchisee agree to enter into good faith negotiations to amend this Agreement to reflect the impact of any such modification.

6. CHARGES, RATES AND LEVEL OF SERVICES:

A. **Obligation of Franchisor for Billing, Collection, and Payments**

(1) **Specific Responsibilities:**

The Franchisor or its designee will be responsible for the billing and collection of payments for Residential Solid Waste Collection Services with the exception of any Special Services provided by the Franchisee. Billing and collection of these services will be the responsibility of the Franchisee.

The Franchisor shall make monthly payments in arrears to the Franchisee for the Residential Solid Waste Collection Service provided pursuant to this Agreement. The Franchisee shall be entitled to payment for services rendered irrespective of whether or not the Franchisor collects from customers for such services. Payments from the Franchisor will be due and paid to the Franchisee no later than the tenth (10th) day of the month following the month during which services were rendered. Franchisee shall service all residential units. If Franchisee is in doubt as to whether units are being billed, Franchisee will contact the Contract Administrator.

On or before October 1, and before commencement of work by the Franchisee under the terms of this agreement, the Franchisor shall provide to the Franchisee the estimated total number of units to be serviced. By November 1 of each Fiscal Year, the Franchisor shall provide to the Franchisee a copy of the annual assessment roll providing a detailed listing of all the units to receive these services. Thereafter and for the duration of this Agreement, the Franchisor shall promptly notify the Franchisee of new residential units to be

served and/or deleted and payments will be adjusted accordingly. New Dwelling Units which are added for service during the Franchisor's Fiscal Year will be added to the customer service list and payment will be paid by the Franchisor to the Franchisee in the Franchisee's monthly payment. Payment will be prorated based upon the date of Certificate of Occupancy.

(2) **Units Omitted From Annual Roll:**

In the event the Franchisee provides service to Dwelling Units whose parcel was not included on the annual assessment roll provided by the Franchisor, the Franchisee must provide a written list of such Dwelling Units to the Contract Administrator as soon as possible after receipt of the assessment roll. Upon receipt of such written list by the Franchisor, the Contract Administrator will, within 30 days, verify the customer address and that service to the unit is proper, and if proper, shall remit monthly payments to the Franchisee for such service effective as of October 1 of the Fiscal Year or the date service began, whichever is later. The Franchisor reserves the right to correct any errors of omission or commission per the laws and rules that govern the Franchisor. In the event the Franchisor pays the Franchisee for a residential unit in error for whatever reason, the Franchisee shall notify the Contract Administrator. Upon determination of any overpayment, the Contract Administrator will verify the error and make appropriate adjustment to the Franchisee's payment to correct the error.

B. **Solid Waste and Recycling Collection Rate Adjustments:**

For all Collection services, the charges shall be initially based on the rates established in Exhibit II, and as subsequently adjusted pursuant to this Agreement. The Franchisee shall receive an annual adjustment in the Residential Solid Waste Collection Service, Commercial Recycling Collection Service, Commercial Solid Waste Collection Service and Residential Recycling Collection Service rates. The adjustment shall be made to the combined category of Residential Solid Waste Collection Service and to Residential Recycling Collection Service and, separately to the combined category of Commercial Solid Waste Collection Service and Commercial Recycling Collection Service. At the end of the first year of this Agreement the adjustment shall be made in accordance with the percentage change in the Consumer Price Index for all urban consumers (CPI-U) for the most

recent 12 months available, ending in February.

No later than April 30 of the year following the Franchisee's fiscal year hereby defined as January 1 through December 31, the Franchisee shall deliver to the Franchisor, in a format as shown in Exhibit V, (as may be further revised by the Contract Administrator from time to time), an audited Financial Statement including, at a minimum, a balance sheet and an Income Statement representing the financial position and the results of operations respectively of the Franchisee for each Service Area. The report must include the opinion of a Florida Certified Public Accountant, who has conducted an audit of the Franchisee's books and records in accordance with generally accepted auditing standards which include tests and other procedures necessary, that the Financial Statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles.

The Franchisor and Franchisee understand and agree that time is of the essence regarding receipt of the audited financial statement. Therefore, if the Franchisee fails to provide the Franchisor with the audited financial statement on or prior to the date prescribed herein, the Franchisee shall pay the Franchisor the sum of one hundred dollars ($100.00) per day for each calendar day the submittal is late. **No extension will be granted, except for uncontrollable circumstances as referred to in Section 21**.

No rate adjustments of any type will be granted to the Franchisee unless all required audits have been filed in a timely manner.

C. **Solid Waste Disposal and Recycling Processing Costs**:

Residential solid waste disposal and residential recycling processing costs will be part of the special assessment billed by the Franchisor. Commercial costs and commercial recycling processing charges will be billed by the Franchisee and submitted on a monthly basis to the Franchisor in a format prescribed by the Contract Administrator. This monthly billing statement shall be due by noon on the tenth (10th) day of each month, or the first business day thereafter, and shall contain information pertaining to the preceding month. Information provided on the monthly billing statement shall be complete and accurate, and falsification of the same shall be a criminal offense.

D. **Extraordinary Rate Adjustment:**

The Franchisee may petition the Franchisor at any time for an additional rate adjustment on the basis of extraordinary and unusual changes in the cost of operations that could not reasonably be foreseen by a prudent operator. The Franchisee's request shall contain substantial proof and justification, as determined by the Contract Administrator, to support the need for the rate adjustment. The Franchisor may request from the Franchisee such further information as may be reasonably necessary in making its determination. The Franchisor shall at its sole option approve or deny the request, in whole or in part, within sixty (60) days of receipt of the request and all other additional information required by the Franchisor.

E. **Franchise Fee**:

To compensate for the cost of administration, supervision and inspection rendered for the effective performance of this Agreement, the Franchisee shall pay to the Franchisor a fee of three percent (3%) of all gross revenues charged, collected or received arising out of any services or operations conducted in the Service Area. Commercial solid waste disposal costs and commercial recycling processing costs shall be deducted from the gross revenue total prior to applying the 3% for calculation of the franchise fee due to the Franchisor. Franchise fees shall be payable within forty-five (45) days of the last day of each calendar quarter.

7. **HOLIDAYS**:

The Monroe County Transfer Stations will be closed on Thanksgiving Day, Christmas Day and New Year's Day. The Franchisee shall not be required to collect Residential Solid Waste, Vegetative Waste, Residential Recyclable Material or maintain office hours on these designated holidays. Services not provided on the designated holidays shall resume on the next scheduled service day.

A. **Service Fee:**

Requiring a designated facility to remain open outside its regular business hours, and with a 24-hour notice to the Contract Administrator, the Franchisee shall be charged a Service Fee of $100.00 per hour for every hour (or portion thereof) the site remains open, with a two hour minimum fee.

8. **SPECIAL SERVICES**:

Rates charged for Special Services may not exceed the special service rates as listed in Exhibit VI. In the event the requested special service is not included within Exhibit VI, the Franchisee may negotiate with the customer for the rate. Upon failure of the parties to reach an agreement on the rate, the Contract Administrator shall establish the rate. The Franchisee shall be responsible for billing and collection of payment for all Special Services.

9. **PUBLIC AWARENESS PROGRAM:**

The Franchisee shall assist the Franchisor with the Public Awareness Program by distributing door hangers, stickers, flyers or other medium to residential and commercial customers as requested by the Franchisor. Additionally it is the Franchisee's responsibility to provide information to the Franchisor about those customers who repeatedly do not prepare or set out their Recyclable Material or solid waste as specified within this Agreement.

The Commercial Recycling customer will also be notified, by the Franchisor through the Franchisee about special commercial recycling events, workshops, educational forums and symposiums and other activities, as needed.

10. **MANNER OF COLLECTION**:

The Franchisee shall collect Residential Solid Waste, Vegetative Waste and Recyclable Materials and Commercial Solid Waste and Recyclable Materials with as little disturbance as possible and shall leave any receptacle at the same point it was collected.

Any container damaged by the Franchisee will be replaced by the Franchisee within seven (7) days at no cost to the customer, unless otherwise provided within this Agreement. The replacement must be similar in style, material, quality and capacity. Throwing of any garbage receptacle, container or recycling container is prohibited.

To be eligible for pick-up, Residential Solid Waste and Vegetative Waste - Regular must be placed in a Garbage Receptacle or properly bundled. Vegetative Waste - Oversize and Bulk Trash as defined in Sections 2.SS. and 2.C. of this Agreement shall be picked up by the Franchisee within seven (7) calendar days of notification by the resident of the Dwelling Unit. Vegetative Waste - Oversize and Bulk Trash must be placed at an accessible pick-up location.

11. **PERSONNEL OF THE FRANCHISEE:**

A. The Franchisee shall assign a qualified person or persons to be in charge of the operations within the service area and shall give the name(s) of the person(s) to the Contract Administrator.

B. The Franchisee's solid waste collection employees shall wear a uniform or shirt bearing the company's name during operations.

C. Each driver of a collection vehicle shall at all times carry a valid Florida driver's license for the type of vehicle that is being driven.

D. The Franchisee's name and office telephone number shall be properly displayed on all solid waste and recycling collection vehicles and Containers provided by the Franchisee.

E. The Franchisee shall provide operating and safety training for all personnel.

F. The Franchisee's employees shall treat all customers in a polite and courteous manner.

12. **SPILLAGE:**

The Franchisee shall not litter or cause any spillage to occur upon the premises or the right-of-way wherein the collection shall occur. During hauling, all solid waste, vegetative waste and recyclable material shall be contained, tied, or enclosed so that leaking, spilling and blowing is prevented. In the event of any spillage or leakage caused by the Franchisee, the Franchisee shall promptly clean up all spillage and leakage at no cost to the Franchisor.

13. **SOLID WASTE AND RECYCLING FACILITIES:**

All Residential Solid Waste, Commercial Solid Waste, Vegetative Waste and Recyclable Material shall be delivered to a site or facility designated in writing to the Franchisee by the Contract Administrator. If the Franchisor should request the Franchisee to deliver to a site or facility which is a greater distance than the nearest site or facility, the Franchisor shall compensate the Franchisee for such additional directly related costs based on a cost per truck mile annually agreed upon by the Franchisor and Franchisee. The Franchisee shall provide to the Franchisor by August 1st of each year written notice indicating the estimated cost of operation per truck mile which shall be in effect for the twelve (12) month period

beginning October 1st. The Franchisor shall provide the Franchisee written notice of either approval or denial of the proposed cost by August 15th. If denied, the Franchisor and the Franchisee agree to negotiate in good faith and reach agreement regarding the estimated cost per truck mile. Such agreement shall not be unreasonably withheld by either the Franchisor or Franchisee. If an agreement cannot be reached, the Franchisee may petition the Board of County Commissioners for a final hearing on the denial. Such decision by the Board shall be final.

In the event that a load of Recyclable Materials delivered to the designated facility contains more than 3.5%, by weight of the total load, material which is not Recyclable Material or that there is more than 3.5% paper products within the other co-mingled Recyclable Material or vice versa, the Franchisor has the right to reject the load and to charge the Franchisee the full disposal fee for each ton within the load. The Franchisee may pass this cost through to a commercial customer in the event that the Franchisee can prove that the customer caused the contamination to the satisfaction of the customer. In the event of a dispute, the Contract Administrator will determine whether the Franchisee or the customer will absorb the disposal fee. It is the responsibility of the Franchisee to notify the Franchisor of any customer who has on more than three occasions contaminated the Recyclable Materials.

14. **COLLECTION EQUIPMENT**:

The Franchisee shall have on hand at all times and in good working order such equipment as shall permit the Franchisee to adequately and efficiently perform the contractual duties specified in this Agreement. Upon execution of this Agreement and annually thereafter, the Franchisee shall provide in a format specified by the Contract Administrator a list of the equipment to be used by the Franchisee to provide services relating to this Agreement. Solid Waste collection equipment shall be of the enclosed loader packer type, or other equipment that meets industry standards and is approved by the Contract Administrator. All equipment shall be kept in good repair, appearance and in a sanitary, clean condition at all times. Recycling Materials collection equipment shall be multiple compartment equipment (one compartment for each recyclable material collected), or other equipment that meets industry standards and is approved by the Contract Administrator, and must be compatible for unloading at the designated facility. Equipment utilized for the collection of Recyclable Materials shall be clearly identified for that purpose. The Franchisee shall have available reserve equipment which can be put into service the same day as the occurrence of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the Franchisee to

perform the contractual duties.

15. **VEGETATIVE WASTE**:

All vegetative Waste shall be collected separately from Residential Solid Waste, Commercial Solid Waste and Recyclable Materials. All tree and shrub trimmings, grass clippings, palm fronds and all tree branches or other similar loose waste shall be tied in bundles or placed in containers. Oversize Vegetative Waste must be no more than six (6) feet in length and placed neatly at the curb.

16. **SPECIAL WASTE, HAZARDOUS WASTE, BIOHAZARDOUS OR BIOMEDICAL WASTE AND SLUDGE**:

The Franchisee shall not be required to collect and dispose of Special Waste, Hazardous Waste, Biohazardous or Biomedical Waste, or Sludge, but may offer such service in the Service Area. All such collection and disposal for those types of waste in this Section are not regulated or exclusive under this Agreement, but if provided by the Franchisee shall be in strict compliance with all federal, state and local laws and regulations.

17. **OFFICE**:

The Franchisee shall maintain an office within Monroe County where complaints shall be received. It shall be equipped with sufficient telephones, and shall have responsible persons in charge during collection hours and shall be open during normal business hours, 8:00 a.m. to 2:00 p.m., Monday through Friday. The Franchisee shall provide an answering machine during non-office hours for the receipt of customer inquiries. The Franchisee shall provide a contact person for the Franchisor to reach during all non-office hours. The contact person must have the ability to authorize Franchisee operations in the case of Franchisor direction or situations requiring immediate attention.

18. **COMPLAINTS**:

All service complaints shall be directed either to the Contract Administrator or to the Franchisee. All complaints received by the Contract Administrator will be forwarded daily to the Franchisee by telephone or other electronic means. All complaints received by the Franchisee shall be recorded on a form approved by the Contract Administrator. All complaints shall be resolved within twenty-four (24)

hours after receipt by the Franchisee. When a complaint is received on a Saturday or the day preceding a holiday, as specified in this Agreement, it shall be resolved by the Franchisee no later than the next regular working day. If a complaint cannot be resolved within twenty-four (24) hours, the Contract Administrator shall be notified. Upon resolution, the Franchisee shall notify the Contract Administrator or his designee of the action taken to resolve the complaint on the approved form.

The Franchisee shall provide the Contract Administrator with a full written explanation of the disposition of any complaint involving a claim of damage to private or public property as a result of actions of the Franchisee's employees, agent, or sub-contractor.

19. **QUALITY OF SERVICE**:

A. It is the intent of this Agreement to ensure that the Franchisee provides a quality level of solid waste and recycling collection services.

(1) To this end, all complaints received by and/or referred to the Franchisee shall be promptly resolved pursuant to the provisions of Section 18 of this Agreement.

(2) An excess of legitimate complaints shall be a determining factor in the Franchisor's decision to exercise the renewal option as specified in Section 1. An excess of legitimate complaints shall be defined as an amount that exceeds two percent (2%) of the total customers served by the Franchisee within the service area during any Franchisor fiscal year. The legitimacy of a complaint shall be determined by the Contract Administrator or his designee.

(3) Any occurrence of the following actions on the part of the Franchisee shall result in an assessment of liquidated damages, with the designated amount deducted from payments due or to become due to Franchisee:

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	Improper Actions	Liquidated Damages
a.	Failure to collect missed customers by 6:00 p.m. the same day when given notice before noon, or by 12:00 noon the following day when given notice between 12:00 noon and 5:00 p.m.	$25.00 per incident to a maximum of $150.00 per truck per day
b.	Legitimate complaints over ten (10) per month	$100.00 per incident
c.	Collection of Residential Solid Waste and/or Recyclables before 5:00 a.m. or after 6:00 PM.	$100.00 per incident
d.	Commingling Solid Waste with Vegetative Waste, Recyclable Materials, C&D Materials, or other waste material:	$100.00 per incident
e.	Failure to clean spillage:	$100.00 per incident
f.	Failure to replace damaged container within seven days (two days for residential)	$100.00 per incident
g.	Failure to return containers or garbage receptacles to original location.	$100.00 per incident
h.	Failure to repair damage to customer property:	$100.00 per incident
i.	Reserved for future use.	
j.	Failure to comply with designated facility regulations:	$100.00 per incident
k.	Failure to provide clean, safe and sanitary equipment:	$100.00 per incident
l.	Failure to maintain office hours as required:	$100.00 per incident
m.	Operator not licensed:	$100.00 per incident
n.	Failure to provide documents and reports in a timely and accurate manner:	$100.00 per incident
o.	Failure to cover materials, if appropriate, on collection vehicle(s):	$100.00 per incident
p.	Name and phone number not displayed on equipment or containers:	$100.00 per incident
q.	Providing exclusively prohibited service in another Franchisee's area, without prior authorization by the Contract Administrator:	$100.00 per incident
r.	Not providing schedule and route maps:	$100.00 per incident
s.	Excessive noise generated by service equipment and/or personnel:	$100.00 per incident
t.	Using improper truck to service commercial or residential customer:	$100.00 per incident

u.	Failure to submit disclosure notice to either customer or Contract Administrator:	$100.00 per incident
v.	Failure to report recycling activity monthly (on or before the 10th day of the following month)., in the format determined by the Franchisor, for the purpose of tracking and verifying county-wide recycling activity:	$100.00 per incident
w.	Failure to offer a corresponding reduction in the level of solid waste service with the implementation of commercial recycling:	$100.00 per incident
x.	Failure to submit an audited financial statement by the prescribed date:	$100.00 per calendar day
y.	Failure to respond to complaints and customer calls, including commercial recycling customers, in a timely and appropriate manner:	$100.00 per incident
z.	Failure to complete a route on the regular scheduled pick-up day:	$1000 for each route per day not completed
aa.	Failure to deliver any Residential or Commercial Solid Waste, Vegetative Waste or Recyclable Materials to a designated facility:	$1000 for 1st offense; $2500 for 2nd offense; loss of franchise for 3rd offense
bb.	Failure to provide proper notification prior to residential route changes:	$1000 per incident
cc.	Failure to finish the uncompleted route (s) of the previous day on the next calendar day:	$1500 for each failure to complete

The Contract Administrator may assess charges pursuant to this Section. The Franchisee will be notified in writing of the administrative charges assessed and the basis for each assessment. In the event the Franchisee wishes to contest such assessment it shall, within five (5) days after receiving such notice, request in writing an opportunity to be heard by the Contract Administrator and present its defense to such assessment. The assessment(s) will only be deducted following the determination by the Contract Administrator. The decision of the Contract Administrator will be final.

20. FILING OF REQUESTED INFORMATION AND DOCUMENTS:

A. In addition to any other requirements of this Agreement, the Franchisee shall be required to file pertinent statistical and aggregate cost information pertaining to solid waste collection and recycling collection services that is requested by the Franchisor to comply with the provisions of Chapter 403, F.S., as amended, and any other pertinent laws and regulations. The Franchisee will also be required to submit a monthly operations report in a format prescribed by the Contract Administrator. The results of all recycling activity conducted by the

Franchisee in the Service Area during each month, whether residential or commercial, shall be reported accurately to the Franchisor in a format and with such dates as specified by the Franchisor, on or before the 10th day of the following month.

B. The Franchisee shall file and keep current with the Franchisor documents and reports required by this Agreement. By September 1st of each year this Agreement is in effect, the Franchisee shall ensure and certify to the Franchisor that all required documents such as, but not limited to, certificates of insurance, audits, performance bond or letter of credit, route schedule and maps, drivers license certifications, and list of collection equipment vehicles, are current and on file with the Franchisor. Failure to file any document or report within five (5) working days of the required filing date, except where granted an extension by the Contract Administrator, may result in the levy of a liquidated damage as provided in Section 19.

21. **UNCONTROLLABLE CIRCUMSTANCES**:

Neither the Franchisor nor Franchisee shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid.

Neither party shall, however, be excused from performance if non-performance is due to forces which are preventable, removable, or remediable and which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

22. **PERMITS AND LICENSES**:

The Franchisee shall obtain, at his own expense, all permits and licenses required by law for the Franchisee's operation under this Agreement and maintain the same in full force and effect.

23. **PERFORMANCE BOND**:

The Franchisee shall furnish to the Franchisor a performance bond executed by a

surety company licensed to do business in the State of Florida and/or a clean irrevocable letter of credit issued by a bank within Monroe County to ensure the faithful performance of this Agreement and all obligations arising hereunder in the appropriate amount determined in accordance with Exhibit VII. The clean irrevocable letter of credit or bond provided hereunder, each may be substituted for the other upon approval by the Franchisor. The form of this bond or letter of credit, and the Surety Company, shall be acceptable to the Franchisor attorney and shall be maintained during the term of this Agreement. The bond shall be endorsed to show the Franchisor, a political subdivision of the state of Florida; and shall also provide that bonds shall not be canceled, limited or non-renewed until after thirty (30) days written notice has been given to the Franchisor. Current performance bonds evidencing required coverage must be on file at all times.

24. **WORKER'S COMPENSATION INSURANCE**:

Worker's Compensation coverage must be maintained in accordance with statutory requirements as well as Employer's Liability Coverage in an amount not less than $100,000.00 per incident.

25. **LIABILITY INSURANCE**:

The Franchisee shall, during the term of this Agreement, and any extensions hereof maintain in full force and effect general and automobile liability insurance, which specifically covers all exposures incident to the Franchisee's operations under this contract. Such insurance shall be with a company rated "A" or better by Best Rating Service and in an amount of not less than $1,000,000.00 Combined Single Limit for personal injury, including death, and property damage liability and shall include but not be limited to coverage for Premises/Operations, Products/Completed Operations, Contractual, to support the Franchisee's agreement or indemnity and Fire Legal Liability. The Franchisee shall purchase and maintain, throughout the life of the contract, pollution liability insurance which will respond to bodily injury, property damage, and environmental damage caused by a pollution incident. The minimum limits of liability shall be: $1,000,000.00 per occurrence/$2,000,000.00 aggregate.

Policy(ies) shall be endorsed to show the Franchisor, a political subdivision of the state of Florida, as an additional insured as its interests may appear; and shall also provide that insurance shall not be canceled, limited or non-renewed until after thirty (30) days written notice has been given to the Franchisor. Current certificates of insurance evidencing required coverage must be on file with the Franchisor at all times. Franchisee expressly understands and agrees that any

insurance protection furnished by Franchisee shall in no way limit its responsibility to indemnify and save harmless Franchisor under the provision of Section 26 of this Agreement.

26. **INDEMNITY**:

The Franchisee will hold the Franchisor harmless from any and all liabilities, losses or damages the Franchisor may suffer as a result of claims, demands, costs or judgments against the Franchisor arising out of the negligence or omission of the Franchisee or its employees, which said liabilities, losses, damages, claims, demands, costs or judgment arise directly out of the matters which are the subject of this Collection Agreement and the work to be performed thereby. The Franchisee shall in no way be responsible for or in any way indemnify or hold the Franchisor harmless for any act, omission, negligence or other liability caused by the act or omission in whole or in part of the Franchisor or any one of its employees or agents.

27. **ACCESS TO FRANCHISEE BOOKS AND RECORDS**:

The Franchisee shall maintain within Monroe County adequate records of all Solid Waste collection and recycling services. The Franchisor or its designee shall have the right to review all records maintained by the Franchisee upon 24 hours written notice. An annual audit of the books and records by a Florida independent certified public accounting firm prepared in accordance with generally accepted accounting principles, pertaining only to each individual Collection Agreement and Service Area, shall be delivered to the Franchisor no later than April 30 of the year following the Franchisee's fiscal year, hereby defined as January 1 through December 31. **No extensions will be granted, except for uncontrollable circumstances as referred to in Section 21.** No rate adjustments of any type will be granted to the Franchisee unless all required audits have been filed in a timely manner. Franchisee shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for pubic records purposes during the term of the Agreement and for four years following the termination of this Agreement.

28. **POINT OF CONTACT**:

All dealings, contacts, notices and payments between the Franchisee and the Franchisor shall be directed by the Franchisee to the Contract Administrator.

29. **NOTICE**:

Except where otherwise noted herein, any communication required for any purpose in this Agreement shall be in writing and delivered with a signed receipt as follows:

As to the Franchisor:
Monroe County
Solid Waste Management Department
1100 Simonton Street, Room 2-284
Key West, FL 33040
Attention: Contract Administrator

As to the Franchisee:
Ocean Reef Club, Inc.
31 Ocean Drive, Suite C-300
Key Largo, FL 33037
Attention: President

30. **DEFAULT OF CONTRACT**:

A. The Franchisor may cancel this Collection Agreement, except as otherwise provided below in this section, by giving Franchisee thirty (30) days advance written notice, to be served as hereafter provided, upon the happening of any one of the following events:

(1) Franchisee shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal Bankruptcy laws or under any other law or state of the United States or any state thereof, or consent to the appointment of the receiver, trustee or liquidator of all or substantially all of its property; or

(2) By order or decree of a Court, Franchisee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Franchisee, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of cancellation shall become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or

(3) By or pursuant to or under authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of the Franchisee, and such possession or control shall continue in effect for a period of sixty (60) days; or

(4) The Franchisee has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by the Franchisor pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto and said default is not cured within thirty (30) days of receipt of written notice by Franchisor to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by Franchisee of written demand from Franchisor to do so, Franchisee fails to commence the remedy of such default within said thirty (30) days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with Franchisee having the burden of proof to demonstrate [a] that the default cannot be cured within thirty (30) days, and [b] that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time.

B. However, notwithstanding anything contained herein to the contrary, for the failure of Franchisee to provide Collection Service for a period of three (3) consecutive scheduled working days, the Franchisor may secure the Franchisee's billing records on the fourth (4th) working day in order to provide interim collection services until such time as the matter is resolved and the Franchisee is again able to perform pursuant to this Collection