



YARD WASTE COMPOSTING AGREEMENT
BETWEEN

MID MICHIGAN WASTE AUTHORITY
(MMWA)

AND

TDE ENTERPRISES
(Contractor)

Effective Date: _____

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YARD WASTE COMPOSTING SERVICES AGREEMENT

This Agreement, made and entered into effective January 1, 2023, by and between Mid Michigan Waste Authority, a Michigan authorized and enabled incorporated Authority, with offices in the County of Saginaw and State of Michigan, hereinafter referred to as MMWA, and TDE Enterprises, a Michigan incorporated entity located in the County of Saginaw and State of Michigan, hereinafter referred to as TDE Enterprises.

Section One: Contract Recitals

WHEREAS, MMWA collects and arranges for the management of yard waste materials from its Member Municipalities; and

WHEREAS, MMWA requires lawful locations to compost the yard waste materials; and

WHEREAS, TDE Enterprises owns and operates a composting site(s) for the receiving of yard waste, and which is otherwise adequate to serve the needs of MMWA and TDE Enterprises is responsible for obtaining any and all permits and licenses as required by the State of Michigan; and

WHEREAS, on January 11, 2022, MMWA released and issued a "Request For Proposals (RFP) Residential Curbside Solid Waste Services" ("RFP"); and

WHEREAS, TDE Enterprises responded to the RFP; and

WHEREAS, TDE Enterprises agrees that TDE Enterprises participated in the RFP process voluntarily, in good faith, and without any consultation or agreement with any other entity to restrict or otherwise control pricing before or during the RFP process; and

WHEREAS, TDE Enterprises participated in the RFP process and has no claims concerning the RFP process used by MMWA and hereby waives any such claims or disputes relating to or arising from the RFP process.

WHEREAS, MMWA and TDE Enterprises agree that it is desirable and in the best interest of MMWA and its Member Municipalities, that the yard waste collected from any Participating Municipalities be disposed of at TDE Enterprises' composting site; and

WHEREAS, TDE Enterprises is ready, able and willing to provide composting disposal services to MMWA, upon the terms and conditions hereinafter set forth.

WHEREAS, MMWA and TDE Enterprises hereby agree that these recitals are accurate, binding and shall be material terms to this agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants as set forth herein, MMWA and TDE Enterprises hereby agree as follow:

Section Two: Definitions

- A. "Brush" means limbs and tree parts more than two (2) inches in diameter.
- B. "Collection Vendor" means any independent hauling contractor hired by the MMWA to pick up a Member Municipality's yard waste.
- C. "Composting" means the mixing and processing of yard waste for the purpose of making organic materials suitable for use as fertilizer and/or soil substitute.
- D. "Composting Site" and/or "Site" means an area duly authorized by appropriate regulatory Authority to receive yard waste and manufacture compost using a process of Composting.
- E. "Member Municipality" means a city, township, or village who is a member of the Mid Michigan Waste Authority (MMWA) as of the date of this Agreement or during the term of this Agreement.
- F. "Participating Municipality" means any municipality who is a Member Municipality of MMWA and has chosen to participate in this Agreement for composting services. The designation of a Participating Municipality may change at the sole discretion of the Authority.
- G. "Permits" means any and all permits, licenses, approvals, certificates of public convenience which must be issued by any governmental body having jurisdiction thereof to legally enable TDE Enterprises to receive yard waste and operate a composting site.
- H. "Uncontrollable Circumstance" means any act, or event set forth below, which actually and directly results in a Party being unable to perform its obligations under this Agreement and which could not be remedied by that Party taking reasonably prudent steps, but only if the act, event or condition is beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any

condition required of the Party. Such acts or events are limited to the following:

1. an act of God (except normal weather conditions for the area), tornado, epidemic, landslide, lightning, earthquake, fire not caused by TDE Enterprises or MMWA, flood or similar occurrence, an act of public enemy, riot or civil disturbance, sabotage, or similar occurrence;
 2. the order or judgment of any Federal, State, or Local court, administrative Authority or governmental body or officer with jurisdiction in the State of Michigan, including any exercise of the power of eminent domain, police power, condemnation or other taking by or on behalf of any public, quasi-public or private entity; excepting decisions interpreting Federal, State and Local tax laws; provided, however, that such order or judgment shall not arise in connection with or be related to the negligent or willful action or inaction of the Party relying thereon and that neither the contesting in good faith of any such order or judgment nor the reasonable failure to so contest shall constitute or be construed as a willful or negligent action or inaction of such Party;
 3. the failure to issue, or the suspension, termination, interruption, denial, failure of renewal of any permit, license, consent, authorization or approval essential to the operation of the facility, only if such failure, suspension, interruption or denial does not arise in connection with or related to the negligent or willful action or inaction of TDE Enterprises.
 4. a change to Federal, State or Local law, regulation or ordinance that takes immediate effect and renders compliance and performance of contracted duties impossible.
- I. "Unauthorized Waste" means all material other than that defined herein as yard waste.
- J. "Yard Waste" means all grass clippings, leaves, weeds, landscape trimming and their small plant waste items not more than two (2) inches in diameter measured at its largest part.

Section Three: Terms of Services Agreement:

Services to be performed pursuant to the terms of this Agreement shall commence January 1, 2023, and terminate December 31, 2032, unless otherwise amended or extended or terminated by either/both parties in writing as set forth in this Agreement.

Section Four: Materials, Fees, Payment, Hours of Delivery.

- A. Types of Waste: MMWA or its authorized Collection Vendor shall deliver yard waste in compacted form contained in rubbish packer trucks.
- B. Yard Waste/Material Tipping Fee: Commencing on the effective date of this Agreement, the following yard waste composting rates apply per cubic yard of material as set forth below for compacted yard waste delivered to TDE Enterprises' compost site by MMWA or its authorized Collection Vendor during the term of this contract.

Year(s)	Fee per Compacted Cubic Yard
2023	\$8.50
2024	\$8.50
2025	\$8.50
2026	\$8.50
2027	\$8.50
2028	\$8.50
2029	\$8.50
2030	\$8.50
2031	\$8.50
2032	\$8.50

1. Calculation of Fees: TDE Enterprises shall calculate the amount of yard waste delivered to the compost site by Collection Vendor using a conversion formula to establish the appropriate charge for service fee. The conversion formula shall be that used by Michigan Department of Environment Great Lakes, and Energy for conversion of yard waste materials from compacted ton to cubic yards, which at the time of this Agreement is three (3) cubic yards per ton. If TDE Enterprises installs scales, it shall calculate

the amount of yard waste delivered to the compost site by Collection Vendor based upon the difference in weight of the delivery vehicles as weighed before and after the delivery of yard waste.

TDE Enterprises shall invoice the yard waste tipping service fee and be entitled to receive from MMWA the agreed upon fee for each cubic yard of yard waste received at its site.

2. Weighing and Deliveries: At the Commencement Date of this Agreement, TDE Enterprises does not have weight scales at its facility. All compost material shall be measured in either fifteen (15) or thirty (30) cubic yard lots. No other forms or quantity of measurement shall be permitted by MMWA. In the event that scales are installed at the site, TDE Enterprises shall maintain the weighing devices at the site for the purpose of providing its services hereunder. TDE Enterprises, at its cost and expense, shall test and recalibrate the scales as often as may be required by applicable laws. MMWA, by and through its authorized employees or agents, shall have the right to make periodic inspections at the TDE Enterprises facility to oversee weighing and office operations of TDE Enterprises so long as such inspection shall not interfere, obstruct, or otherwise impede the efficient operation of the facility.
 3. Scales: In the event that the scales become inoperable so as to preclude weighing of vehicles as provided in paragraphs (1) and (2) above, TDE Enterprises shall revert to the use of measurement in either fifteen (15) or thirty (30) cubic yard lots, until any such scales are operable.
- C. Load Ticket Records: TDE Enterprises shall maintain a site truck ticket record log for all MMWA loads, containing the name of the applicable MMWA Participating Municipality, driver's name, the material volume or weight, date, time, load ticket number and vehicle identification number of each delivery vehicle upon its entrance and delivery of yard wastes, and provide such detail with the monthly invoicing to MMWA. The load ticket records shall be maintained by TDE Enterprises for a period of two (2) years.
- D. Acceptable Invoice: An invoice generated by TDE Enterprises and submitted to MMWA for the service conducted under this Contract that is otherwise consistent with this Contract. If the MMWA does not object to an Invoice within ten (10) Business Days of its receipt, it shall be deemed an

"Acceptable Invoice" as presented by TDE Enterprises for all purposes under this Contract.

- E. Payment Terms: TDE Enterprises shall submit to MMWA an Acceptable Invoice no later than the tenth Calendar Day of the calendar month following the prior month of services. Any invoice not received by MMWA from TDE Enterprises consistent with the timing set forth herein shall be paid by MMWA to TDE Enterprises in MMWA's next scheduled payment cycle. Any invoice submitted by TDE Enterprises to MMWA that is not an Acceptable Invoice and not resolved by the tenth Calendar Day, shall also be paid by MMWA to TDE Enterprises in MMWA's next scheduled payment cycle.
- F. Hours of Operation: The minimum hours of operation for the TDE Enterprises compost site in regard to this Agreement shall be between the hours of 7:00 a.m. and 4:30 p.m., Monday through Friday. Extended hours and Saturday hours of operation may be required during agreed-upon peak seasonal material generation periods to properly accept all collected materials from MMWA's contracted Collection Vendor. If such hours are needed, MMWA will contact TDE Enterprises to request such at least 24 hours before the extension needed. Reasonable requests, such as operating on a Saturday to accommodate holidays observed by MMWA's Collection Vendor and a limited number of extended hour/day requests (i.e. during peak composting season, resulting from community events, or unforeseen weather or emergency conditions) agreed to by both parties, will be honored at no additional cost to MMWA.
- G. Compliance: TDE Enterprises attests that it is not currently in breach of or in default under the permits or any other applicable laws governing its operations or its facility.

Section Five: Finished Compost Purchase

- A. Member Finished Compost Purchase: All MMWA Member Municipalities shall have the right to purchase finished compost product, if available, on a first come, first served basis, from TDE Enterprises at a rate of \$5.00/cubic yard. This rate includes TDE Enterprises' site workers loading of finished material onto member's transport vehicle(s). Material can be purchased at any time during this Agreement at this discounted rate.

Section Six: Mutual Covenants

- A. The parties agree that no waste beyond Yard Waste will be accepted by TDE Enterprises from MMWA or its Participating Municipalities except as that defined herein as yard waste. In order to ensure that this policy is enforced, the following procedure shall be used:
 - 1. All waste delivered to TDE Enterprises shall be inspected by TDE Enterprises for unauthorized material delivered by the Collection Vendor prior to the Collection Vendor leaving the premises.
 - 2. If unauthorized waste is discovered, the Collection Vendor shall be required to remove the waste and dispose of same at a proper landfill.
 - 3. TDE Enterprises shall immediately report to MMWA via telephone and mail, (a) name of Collection Vendor, (b) name of Participating Municipality and (c) quantity of waste materials rejected from load(s) along with pictures of waste materials.
- B. **Use of Materials:** TDE Enterprises shall have the right to use the collected composting materials in any manner it deems fit, in accordance with all applicable laws/regulations/permits except as defined under Section Five A.
- C. **MMWA Collection Vendor:** This Agreement does not limit MMWA from negotiating or contracting with any Collection Vendor for the pick-up and delivery of the Participating Municipalities' yard waste.

Section Seven: Covenants of TDE Enterprises

- A. **Actions:** During the term of this Agreement, TDE Enterprises shall take any and all actions available to it, at its sole cost and expense to:
 - 1. Maintain the compost site or sites and its ability to receive and process yard waste from MMWA; and
 - 2. Refrain from taking any actions that would in any manner reduce the capability of its compost site to be operated and,
 - 3. Accept yard waste so as to fulfill its obligations and provide the services described herein.

4. Refrain from contracting with other entities that will impair its capacity to receive yard waste material from MMWA.
 5. TDE Enterprises agrees to accept yard waste materials from other current MMWA Member Municipalities or municipalities who join MMWA after this Agreement's effective date during the term of this agreement.
- B. Maintenance of Permits: TDE Enterprises shall obtain and otherwise maintain all necessary permits to operate a compost site and shall take no actions which would adversely affect the retention of said permits in good standing.

Section Eight: Covenants of Authority

- A. Collection by MMWA: MMWA's contracted Collection Vendor shall dispose of collected Participating Municipalities' yard waste at the composting site(s) operated by TDE Enterprises. Yard waste collected under the MMWA's Collection Agreement shall be so collected for disposal in accordance with the regulations governing solid waste disposal promulgated by the State of Michigan and County of Saginaw.
- B. Member Community Yard Waste Materials: All of the yard waste materials collected from the Participating Municipalities listed on the attached Schedule A as of January 1, 2023, shall, during the term of this Agreement, be disposed of at TDE Enterprises composting site. Neither MMWA nor any Participating Municipalities listed on Schedule A as of January 1, 2023, shall dispose of its collected yard waste elsewhere or in any other manner except as noted unless TDE Enterprises agrees to release obligations under this Agreement based on composting site capacity or fiscal constraints.

Section Nine: Reporting and Recordkeeping

- A. Reports: TDE Enterprises shall file with MMWA written reports of TDE Enterprises' performance under this Agreement. The reports noted are the minimum to be provided MMWA. Additional reports may be requested from TDE Enterprises by MMWA, in writing, should such be identified as relevant and necessary.
1. Program Reporting: TDE Enterprises shall submit to MMWA the following reports, on forms approved by MMWA, during the term of this Agreement.

- a. Monthly Reports - Within ten (10) Calendar days of the end of each month, TDE Enterprises shall submit a monthly report to MMWA, consisting of at least the following:
 - (i) A listing compiled from TDE Enterprises' daily records showing every truckload of tipped material from MMWA Participating Municipalities, including the name of the Participating Municipality, driver's name, the date the load was tipped, the volume or weight of each load and the applicable truck number for such. TDE Enterprises will maintain a daily record of vehicle truckloads tipped on MMWA's account along with other daily logs.
- 2. Compost Site Records: TDE Enterprises shall maintain its books and records related to the performance of this Agreement in accordance with the following minimum requirements.
 - a. TDE Enterprises shall maintain and make available for review by MMWA any and all ledgers, books of account, invoices, vouchers and canceled checks, as well as all other records or documents evidencing or relating to charges for services, expenditures or disbursements borne by MMWA for a minimum period of seven (7) years, or for any longer period required by law, from the date of final payment to TDE Enterprises pursuant to this Agreement.
 - b. TDE Enterprises shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of seven (7) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
 - c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time, during regular business hours, upon written request by MMWA. Unless an alternative is mutually agreed upon, the records shall be available at TDE Enterprises' address indicated for receipt of notices in this Agreement.

- d. Where MMWA has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, sale or termination of TDE Enterprises' business, MMWA may, by written request by the MMWA Administrative Director or anyone else authorized by MMWA require that custody of the records be transferred to MMWA and that the records and documents be maintained at MMWA offices. Access to such documents shall be granted to any party authorized by TDE Enterprises, its representatives, or its successor-in-interest.

Section Ten: Insurance and Performance Bond

- A. Insurance: TDE Enterprises shall obtain and maintain throughout the term of this Agreement, at TDE Enterprises' sole cost and expense, including any noted deductible for incidents, not less than the insurance coverage set forth below. All insurance will be by insurers acceptable to MMWA and authorized to do business in the State of Michigan. The insurance shall hold harmless MMWA for the actions of TDE Enterprises and/or TDE Enterprises' subcontractors. The Certificate shall specifically name MMWA as an additional insured party.

TDE Enterprises will secure and maintain during the term of the contract and will require its subcontractors to secure and maintain, insurance from an insurance company authorized to do business in the State of Michigan that will protect TDE Enterprises, subcontractors and MMWA from all liability (public liability, personal injury and property damage) claims which may arise from operations under this contract. TDE Enterprises may not start work until evidence of all required insurance has been submitted and approved by MMWA. TDE Enterprises must cease work if any of the required insurance is canceled or expires. One (1) copy of certificates of insurance shall be submitted and approved by MMWA prior to the execution of the contract.

The certificates must contain the Agreement of the insurance company to notify MMWA in writing at least thirty (30) Calendar days prior to any cancellation, non-renewal or material alteration of the policy. TDE Enterprises shall not allow any work under the contract to be performed by a subcontractor unless evidence of similar insurance covering the activities of the subcontractor is submitted to and approved by MMWA.

The limits of insurance shall not be less than the following:

<u>Coverages</u>	<u>Limits of Liability</u>
Worker's Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability	\$500,000 each occurrence \$1,000,000 aggregate
Property Damage Liability	\$500,000 each occurrence
Except Automobile	\$1,000,000 aggregate
Automobile Bodily Injury Liability	\$500,000 each person \$1,000,000 each occurrence
Automobile Damage Liability	\$500,000 each occurrence
Excess Umbrella Liability	\$5,000,000 each occurrence

- B. Performance Bond: Prior to commencement of performance under this Agreement, TDE Enterprises shall deliver to MMWA a performance bond in the principal sum of \$25,000.00 to guarantee performance by TDE Enterprises of its obligations under this Agreement. The surety company issuing said bond and the form of the bond itself shall be subject to approval by MMWA. Proof of annual renewal of such bond shall be provided to MMWA by January 1 of each year of this Agreement.

Section Eleven: Termination, Default, Breach

- A. Failure to Perform: The failure of either Party to substantially perform any of its obligations or to meet any of its guarantees under this Agreement, other than a failure that results from an Uncontrollable Circumstance, shall constitute a default by that Party and a breach of this Agreement. Subject to the provisions in Section Eleven (3) concerning notice of the circumstances of default and the right to correct or cure, a default shall entitle the other Party to
1. declare this Agreement terminated, or
 2. seek such legal or equitable remedies, including damages, as are permitted by the laws of Michigan, or
 3. both.

In the event a Party declares this Agreement terminated pursuant to this section, that Party shall be obligated to mitigate its damages to the extent reasonably possible under the circumstances.

- B. Additional Acts of Default: In addition to the above failures constituting a breach and default, the following shall also constitute a default and a breach by TDE Enterprises which entitles MMWA to the rights and remedies above:
1. Either the appointment of a receiver to take possession of all or substantially all of the assets of TDE Enterprises, or a general action taken by or suffered by TDE Enterprises under any insolvency or bankruptcy act.
- C. Notice of Default: If a Party believes that the other Party is in default and has breached this Agreement, it must follow the following notice of default process:
1. Provide the other Party written notice of the facts which it believes constitute the default, and
 2. Provide the other Party the opportunity, within thirty (30) Calendar days, to correct or cure the default, or, if not capable of being corrected within thirty (30) Calendar days, commence correcting default within thirty (30) Calendar days of Party's notification thereof.
- D. Additional Termination Rights: In addition to the above termination rights:
1. MMWA and TDE Enterprises shall also be entitled to terminate this Agreement if an Uncontrollable Circumstance prevents MMWA or TDE Enterprises from meeting any of their respective obligations for a period of ninety (90) continuous days or more.
 2. If TDE Enterprises is unable to process and/or receive MMWA's composting material at TDE Enterprises' facility and if TDE Enterprises fails to correct the default or provide an alternative means of processing the composting material, within seven (7) Calendar days, MMWA, without further notice, shall have all of the following rights and remedies which MMWA may exercise singly or in combination:

- a. License others to perform the services otherwise to be performed by TDE Enterprises hereunder, or to perform such services itself.
 - b. Terminate the Agreement.
 - c. Institute an action for legal or equitable relief.
- E. Liquidated Damages: Following TDE Enterprises' commencement of performance of the Contract, it shall be the duty of TDE Enterprises to take whatever steps may be necessary to remedy the cause of the complaint. Failure to remedy the cause of the complaint shall be considered a breach of Contract and, for the purpose of computing damages under the provisions of this section, it is agreed that MMWA may deduct from payments due or to become due to TDE Enterprises, one hundred dollars (\$100.00) per event, per day of non-compliance, as liquidated damages:
 - 1. For failure to comply with any administrative requirements or conditions of this agreement.
 - 2. Failure to provide any documents or reports specified by this agreement.

If the number and/or frequency of events is deemed excessive, or exceeds three (3) events in thirty (30) Calendar days, liquidated damages shall be tripled, to three hundred (\$300) per event for the above listed events.

In the event of breakdown of TDE Enterprises' equipment or for any reason a delay in service results, TDE Enterprises will be responsible for extra cost incurred in regaining efficiency. If the interruption continues for more than 24 hours, MMWA may also seek other means to perform the work. All additional cost to MMWA will be borne by TDE Enterprises.

If the interruption of work continues for seven (7) Business days, MMWA's Authorized Representative shall have the authority to terminate the contract and invoke the terms of the performance bond.

Liquidated damages, as aforesaid, shall be determined by MMWA and deductions made from TDE Enterprises' payment after investigation by the MMWA Administrative Director or anyone else authorized by MMWA, whose decision in the matter shall be final and binding upon both

parties, unless appealed in writing to MMWA's Authorized Representative within ten (10) Calendar days after notice, whose decision, after granting an informal hearing to TDE Enterprises and presenting MMWA's case, shall be final and binding and from which there shall be no further appeal.

The liquidated damages outlined above do not cover actual damages that can be shown or quantified, nor are they intended to preclude recovery of actual damages in addition to the recovery of liquidated damages. Liquidated damages are provided because of the difficulty and inconvenience in attempting to establish damages, are not assessed as a penalty, and are the parties' reasonable estimate of fair compensation for the foreseeable losses that might result from the identified events.

Section Twelve: Termination

- A. In addition to any other termination rights set forth herein, this Agreement may be terminated for the following:
 - 1. By mutual consent of both parties;
 - 2. By MMWA if an event of uncontrollable circumstance preventing the other parties' performance under this Agreement, is continued for a period exceeding thirty (30) Calendar days.

Section Thirteen: Indemnification and Hold Harmless

- A. Indemnification and Limitation of Liability by TDE Enterprises: TDE Enterprises agrees to indemnify, hold harmless and defend MMWA, its officers, employees, agents and representatives, from and against any and all liability, claims, demands, actions or suits, of whatsoever character or kind, arising or resulting from, or in any way connected with, TDE Enterprises' performance of this Agreement, the operations of TDE Enterprises, its agents, employees or sub-contractors, or the failure of TDE Enterprises to comply with the provisions and requirements of all applicable permits, licenses, laws or regulations.

If personal injury (including death) or property damage is caused by the concurrent wrongful acts, omission to act, or negligence of the parties, or their respective agents, officers, employees, licensees, contractors, or others for whom each party has legal responsibility, then, in such event, the parties shall share proportionately the liability for such damage or injury.

The Parties' indemnity obligation is for the exclusive benefit of the other Party and in no event shall such indemnity inure to the benefit of any third Person.

- B. Waiver: MMWA shall not be liable to TDE Enterprises or its employees for any injuries to TDE Enterprises' employees arising out of the performance of the Agreement. TDE Enterprises agrees to waive any and all rights of recovery from MMWA for worker's compensation claims made by its employees.

Section Fourteen: Non-Assignment

- A. TDE Enterprises shall not assign, transfer, convey, or otherwise hypothecate this Agreement or TDE Enterprises' rights, duties or obligations hereunder or any part thereof without providing notice in writing to MMWA and the written concurrences of TDE Enterprises' surety. In the event TDE Enterprises attempts to assign, transfer, convey or otherwise hypothecate this Agreement or TDE Enterprises' rights, duties or obligations hereunder or any part thereof without the prior written consent of MMWA, MMWA may, at its option, terminate this Agreement immediately. The same provisions of non-assignment apply to MMWA.

Section Fifteen: Permits and Licenses

- A. TDE Enterprises, at its sole cost and expense, shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals necessary or required for TDE Enterprises to perform the work and services described. TDE Enterprises shall identify and obtain all licenses and permits (other than the license and permit granted by the Contract) and promptly pay all taxes lawfully required by TDE Enterprises, Saginaw County, and the State of Michigan. TDE Enterprises shall be responsible for all fines and penalties arising from TDE Enterprises' failure to obtain and maintain all necessary licenses and permits.

Section Sixteen: Compliance with Laws and Regulations

- A. Parties agree that, in the performance of work and services under this Agreement, both parties will qualify under and comply with any and all enforceable Federal, State and Local laws and regulations now in effect, or hereafter enacted during the term of this Agreement, which are applicable to the party, its employees, agents and subcontractors, if

any, with respect to the work and service described herein. Any contractor(s) delivering materials from MMWA Participating Municipalities shall also comply with any and all enforceable Federal, State and Local laws and regulations now in effect, or hereafter enacted during the term of their applicable Agreement.

B.

Section Seventeen: Independent Status

- A. It is agreed and understood that each party hereto is considered an independent entity. Any and all joint venture or partnership status is hereby expressly denied and the parties expressly state that they have not formed, either expressly or impliedly, a joint venture or partnership.

Section Eighteen: Insolvency

- A. Either the appointment of a receiver to take possession of all or substantially all of the assets of a party, or a general action taken by or suffered by either party under any insolvency or bankruptcy act shall constitute a breach of this Agreement by that party and shall, at the option of the other party, terminate this Agreement.

Section Nineteen: General and Administrative Provisions

- A. No Waiver: The failure or delay in the enforcement of the rights detailed herein shall not constitute a waiver of those rights or be considered as a basis for estoppel. The parties may exercise their rights herein despite said delay or failure to enforce said rights.
- B. Dispute or Contest: In the event that a dispute occurs or an action in law or equity arises out of the operation, construction or interpretation of this Agreement, the party prevailing shall be entitled to reasonable attorney's fees and costs arising there from.
- C. Paragraph Headings: The paragraph headings used herein are descriptive only and shall have no legal force or effect whatsoever.
- D. Severability and Survival: If any provision of this Agreement shall, for any reason, be held in violation of any applicable law, and so much of the Agreement is held to be unenforceable, the invalidity of such a specific provision herein shall not be held to invalidate any other provisions herein, which other provision shall remain in full force and effect unless

removal of the invalid provisions destroys the legitimate purposes of this Agreement, in which event this Agreement shall be terminated.

- E. Term Extension: This Agreement may be extended in its totality if mutually agreed to by the parties in writing.
- F. Notices: All notices required or permitted herein must be in writing and shall be mailed by registered or certified mail, return receipt requested, postage prepaid, to the party to whom notice is to be given at the address set forth below or to such address as either party hereto may designate to the other by notice from time to time for this purpose.

Section Twenty: Law to Govern

This Agreement is entered into and is to be performed in the State of Michigan. MMWA and TDE Enterprises agree that the law of the State of Michigan shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section Twenty One: Amendments

The terms of this Agreement are binding on both parties and shall not be altered except as provided by both parties in writing.

Section Twenty Two: Agreement in Entirety

This Agreement represents the entire Agreement by and between the parties hereto and supersedes any prior and/or contemporaneous oral or written Agreements by and between the parties, except as otherwise provided herein, and it may not be changed except by written amendment duly executed by all parties hereto.

Executed in multiple originals as of the date first above written, the signatures below are duly binding on both parties for the above provisions of this Agreement for Yard Waste Composting Services.

IN WITNESS WHEREOF the above agreement for composting services, the parties have executed this Agreement as of the date and year first written.

On behalf of MMWA:

Chair, Mid Michigan Waste Authority

Date

Approved by MMWA Board of Trustees

Date

On behalf of TDE Enterprises

TDE Enterprises

Date