

# **PROFILED WASTE DISPOSAL AGREEMENT**

Covanta Environmental Solutions, LLC, 445 South Street, Morristown, NJ 07960 ("Covanta")

## **CUSTOMER INFORMATION**

Company: County of Monterey – Sheriff's Office			Name: Victor Lurz	
Address: 1414 Natividad Road			Title: Crime Lab Supervisor	
City: Salinas	State: CA	Zip: 93906	Phone: 831-759-7258	Fax:
Phone: 831-755-3767	Fax:	Email: lurzv@co.monterey.ca.us		

## **CUSTOMER CONTACT**

## **BILLING INFORMATION** ☒ Same as Customer information

Company:			Name: Alex Gonzales or Jose Alvarado	
Address:			Title: Accounting	
City:	State:	Zip:	Phone: Alex 831-755-3767	Phone: Jose 831-755-3755
Phone:	Fax:	Email: gonzalezA5@co.monterey.ca.us alvaradojp@co.monterey.ca.us		

## **BILLING CONTACT** ☐ Same as Customer contact

NOTE: If all invoices will not be sent to this location, please attach a list of additional shipping locations with corresponding billing information as schedule 4 of this Agreement.

## **DISPOSAL FACILITY INFORMATION**

The actual Disposal Fee and Facility applicable to each type of Profiled Waste shall be listed on the Approval Letter, as further described in Section 3 below.

THEREFORE, in consideration of their mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Covanta and Customer hereby agree to the terms of this Agreement.

## **TERMS AND CONDITIONS**

**1. Disposal Services.** Customer shall deliver, and Covanta shall receive and dispose of, Customer's Profiled Waste, which has been approved for delivery by Covanta under an Approval Letter, as defined in Section 3 below. COVANTA RESERVES THE RIGHT TO INTERRUPT DELIVERIES AT ANY TIME IN ITS SOLE DISCRETION.

**2. Profiled Waste.** Profiled Waste does not include Unacceptable Waste or Hazardous Waste. Hazardous Waste shall mean any waste which is listed, has the characteristics of, or is otherwise identified as a hazardous waste or subject waste under applicable state or federal laws or regulations, including without limitation the Resource Conservation and Recovery Act of 1976 (42 U.S.C. et seq. and the regulations promulgated thereunder). Unacceptable Waste shall mean: any non-hazardous waste which is not permitted to be processed at a Facility under applicable laws or permits; source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 and the regulations thereunder; asbestos-containing waste; mercury-containing waste; and any waste delivered by Customer which is not approved by Covanta for delivery under an Approval Letter or which does not conform to the information provided to Covanta by Customer with respect to such waste. Covanta shall be entitled to reject any and all waste, which is not Profiled Waste. Covanta shall have the right to inspect the contents of any vehicle. At Covanta's request, Customer shall promptly contain, clean up and remove in accordance with applicable laws any Unacceptable Waste or Hazardous Waste it delivers to a Facility. If Customer does not immediately undertake such actions, Covanta may undertake them at Customer's expense and as Customer's agent. All costs, expenses, fines and penalties in connection with such Hazardous or Unacceptable Waste shall be paid by Customer. A surcharge of \$500.00 per load will be charged by Covanta and paid by Customer for any loads which upon inspection, are found to contain

Hazardous or Unacceptable Waste. In addition, in the event of a spill or release of waste delivered by Customer while such waste is in Customer's control, Customer shall contain and clean up the spill or release in accordance with applicable laws and Covanta guidelines, and shall reimburse Covanta for all costs, expenses, fines and penalties in connection with such spill or release. Profiled Waste delivered by a carrier which has contracted with Covanta or Customer for delivery is deemed to have been delivered by Customer for the purposes of this Agreement.

**3. Profiled Waste Characterization; Transportation; Disposal Fee.** Customer shall, in addition to any labeling, packaging, marketing, manifest or other such documentation required by law, provide Covanta in advance, with a detailed written physical and chemical description or analysis of the Profiled Waste, including a listing of unique chemical characteristics and safety procedures, if such exists, that would be of material significance to the handling of such Profiled Waste (a "Material Characterization Form" or "MCF"). Where requested by Covanta, a representative sample of the waste shall be provided. Customer shall promptly furnish to Covanta any information regarding known, suspected, or planned changes in composition in such Profiled Waste and Customer shall accordingly update the MCF. Customer warrants that all Profiled Waste specified in the MCF and delivered to Covanta shall conform to the description set forth on the MCF and that the contents of each container delivered will be accurately and clearly set forth on a label affixed to the outside. If Covanta agrees that it will accept the waste described in the MCF, it will issue an Approval Letter, the form of which is attached hereto as Schedule 1. The Approval Letter will specify the Facility or Facilities to which the Profiled Waste will be delivered and the Disposal Fee. On each January 1st during the term of this Agreement, the Disposal Fee shall be subject to an increase the from the preceding year's rate by a percentage positive increase, if any, in the consumer price index, for all urban consumers, published by the U.S. Department of Labor, Bureau of Statistics from the preceding year. If Customer requests Covanta to provide transportation services, Covanta will issue a transportation quote acknowledgement form as confirmation of the current



transportation rate, the form of which is attached as Schedule 3. Transportation services will not be provided until the transportation quote acknowledgement form has been signed by Customer and received by Covanta.

**4. Payment.** Customer shall make payment within 30 days of the date of Covanta's invoice at the address specified on such invoice. Amounts owed to Covanta after invoice due date shall accrue interest each day such invoice is not paid at the maximum rate permitted by applicable law. Customer shall also pay Covanta's reasonable investigation costs and attorney's fees for purposes of collection of amounts owed by Customer. At Covanta's option, based on the results of a credit check, Covanta may require, and Customer shall provide as security, an escrow fund or a payment bond sufficient to cover processing Profiled Waste delivered to the Facility by Customer. A fee of \$35.00 will be charged on all returned checks.

**5. Indemnification.** Each party (the "Indemnitor") hereto shall defend, indemnify and hold harmless the other party and its respective partners, parent companies, subsidiaries, and affiliates, and, in the case of Covanta, its client communities (each an "Indemnified Party"), from and against any and all costs, losses, damage, suits, liability and expenses (including, but not limited to, reasonable investigation and legal expenses) arising out of any claim for loss of or damage to property, and injuries to or death of persons, including Indemnified Party's employees, caused by or resulting from the breach of this Agreement or applicable law, negligence or willful misconduct of the Indemnitor, its employees, haulers, contractors, subcontractors or agents or their delivery to the Facility of waste excluded from the definition of Profiled Waste. Neither party shall be liable to the other for any special, incidental or consequential damages, whether arising in contract, tort, strict liability, or in any other cause of action whatsoever. Said duties to indemnify, defend and hold harmless shall survive the termination of this Agreement.

**6. Compliance with Law; Force Majeure.** The parties shall comply with all applicable local, state and federal laws in connection with its performance of and activities in connection with this Agreement. Customer shall also comply with the work and safety rules promulgated to govern operations at the Facility. Except for the obligation to pay for services rendered, no parties hereto shall be liable for its failure to perform hereunder due to events beyond its reasonable control, including, but not limited to, strikes, riots, war, fire, or acts of God, herein called "Events of Force Majeure." The financial inability to perform of a party is not an Event of Force Majeure.

**7. Insurance.** Each party shall maintain, and furnish to the other, upon request, certificates attesting to the existence of, workers' compensation insurance providing statutory benefits, employer's liability insurance with policy limits of not less than \$1,000,000,

automobile and commercial general liability insurance with policy limits of not less than \$2,000,000 each occurrence for bodily injury or death and property damage, and pollution liability insurance having a minimum limit of \$2,000,000 per occurrence. Each such certificate shall contain a statement of the insurer's obligation to notify the other party at least 30 days prior to cancellation of any policy covered thereunder. Each party shall cause the aforesaid liability policies (with the exception of workers' compensation, employers liability and pollution liability) to be duly and properly endorsed by its insurance underwriters as follows: a) to provide an endorsement naming as additional insured, and waiving subrogation in favor of, the Indemnified Parties; b) to contain a standard cross liability and severability clause; c) to provide that said insurance shall be primary in with respect to Covanta's insurance, which shall be secondary and non-contributing at all times; and d) to provide contractual liability coverage.

**8. Term; Termination.** This Agreement may be terminated by either party upon 30 days' written notice. Any obligation of any party for the payment of money which arose prior to the date of termination shall survive termination.

**9. Choice of Law.** This agreement shall be governed by the laws of the State of California, without regard to the principles of conflict of law.

**10. Schedules.** All schedules referenced herein and attached hereto may be found at [www.covantaes.com](http://www.covantaes.com)

**11. Advertising; Publicity.** Neither party shall use the name of the other party or any of its affiliates or related companies or customers in any publicity or advertising or disclose any information related to the existence of this Agreement or the terms and conditions of this Agreement hereof, without the prior written consent of the other party.

**12. Miscellaneous.** (a) This Agreement constitutes the entire understanding between the parties and supersedes all prior negotiations, understandings, and agreements concerning Disposer's service. No changes to this Agreement will be effective unless in writing and signed by the party to be bound. (b) No failure by either party to insist on performance shall operate as a waiver of other or subsequent breaches. (c) Neither party shall assign its rights or delegate its duties under this Agreement to any other person without the prior written consent of the other party, such consent shall not be unreasonably withheld. This Agreement shall inure to the benefit of and bind the respective successors and permitted assigns of the parties hereto. (d) If any provision of this Agreement is held to be unenforceable, this Agreement shall be reformed, but only to the extent necessary to render it enforceable. This Agreement may be executed in any number of counterparts, each of which when so executed shall be an original and all of which together shall constitute one and the same instrument.

**COVANTA ENVIRONMENTAL SOLUTIONS, LLC**

Company



9/24/18

County of  
Monterey

Authorized Signature

Date

Authorized Signature  
Michael J. Williams  
VP customer Care

Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Purchasing Manager

\_\_\_\_\_  


For Monterey County Counsel

\_\_\_\_\_  
10/2/2018

Date

\_\_\_\_\_  


For Monterey County Auditor -Controller

\_\_\_\_\_  
10-3-18

Date