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WASTE FACILITY  
SITING BOARD

MALLARD RIDGE LANDFILL  
NEGOTIATED AGREEMENT.

(f/k/a TURTLE CREEK LANDFILL)

TOWN OF DARIEN

WALWORTH COUNTY

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### TITLE AND INTRODUCTION

This Agreement ("Agreement") is made and entered into by and between Waste Management of Wisconsin, Inc., a Wisconsin corporation (hereinafter referred to as "Operator"), the Town of Darien, a Wisconsin municipal corporation (hereinafter referred to as "Town"), and for the benefit of the County of Walworth, a Wisconsin municipal corporation (hereinafter referred to as "County").

This Final Negotiated Agreement is the final product of the negotiating process provided for under § 144.445, Wis. Stats. This Agreement between the Mallard Ridge Landfill Siting Committee and the Operator shall be deemed a final agreement upon approval thereof by the Negotiating Committee, Town and the Operator.

This Agreement between the Town of Darien and Waste Management of Wisconsin, Inc. shall be known as the "Mallard Ridge Landfill Final Negotiated Agreement".



ARTICLE I  
DEFINITIONS

Active Fill Area means the total capacity approved by the Department of Natural Resources as the disposal capacity for the disposal of solid waste by the Operator at the Solid Waste Facility, in the area depicted and described in Exhibit "A", herein incorporated by reference in this Agreement. This approved area shall not include any expansion of the Active Fill Area or any expansion of the Solid Waste Facility for the purpose of providing additional disposal capacity area at the Solid Waste Facility or at the Active Fill Area.

Acknowledged Transporter means any person who is identified orally or in writing by the Operator at any time as a transporter of Solid Waste to and from the Solid Waste Facility and/or any person who disposes Solid Waste in the Active Fill Area at the Solid Waste Facility. Acknowledged Transporters do not include the Town of Darien or the residents of the Town of Darien who are authorized by this Agreement to Store or Dispose of Solid Waste at the Solid Waste Facility.

County means the County of Walworth, its officers, employees and agents.

Department or "DNR" means the Wisconsin Department of Natural Resources or its successor agency.

Discharge means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Solid Waste or

Hazardous Waste at the Solid Waste Facility, or the dissemination of such wastes by Acknowledged Transporters bringing such wastes to the Solid Waste Facility.

Disposal or Dispose means the Discharge, deposit, injection, dumping or placing of Solid Waste. This term does not include the Storage or the Treatment of Waste at the Solid Waste Facility.

Disposal Operations means any activities at the Solid Waste Facility related to or associated with the Disposal of Solid Waste, including the constructing, surveying, environmental monitoring, environmental testing, repairing, maintaining and closing of the Solid Waste Facility, including the Waste covering at the Solid Waste Facility, where all of the above-noted activities occur any time during the term of this Agreement.

Emergency means an unforeseen circumstance at any time at the Solid Waste Facility or at any other location in the County that jeopardizes the public health, safety and welfare of persons or property in the County or Town.

Expansion means the expansion at any time by any means by the Operator of the design capacity of the Active Fill Area of the Solid Waste Facility beyond the Department of Natural Resources-approved design capacity of approximately five million one hundred ninety-seven thousand (5,197,000) cubic yards of Solid Waste and daily and intermediate cover materials; the same equating to approximately four million three hundred thirty-one thousand (4,331,000) cubic yards of Solid Waste capacity.



Final Closure means the date at which time no further Solid Waste is Disposed in the Active Fill Area by the Operator or by any other person which shall be the earliest of the following:

- (a) the date the Operator notifies the Town and County in writing that the Operator no longer will Dispose of and will no longer allow any other person to Dispose of Solid Waste in the Active Fill Area,
- (b) the date the Department orders the Operator, in writing, to no longer Dispose of and to no longer allow any other person to Dispose of Solid Waste in the Active Fill Area, or
- (c) the date the Operator has Disposed of or has allowed the Disposal in the Active Fill Area of a number of in-place cubic yards of both Solid Waste and daily and intermediate cover materials in the Active Fill Area initially approved for Disposal by the Department.

Hazardous Waste means any Waste identified as a Hazardous Waste by the Department, under sec. 144.62(2)(b), Wis. Stats., or identified as a Hazardous Waste by regulations adopted by the Department in Chapter NR-600 et seq., Administrative Code, or its successor chapters.

Initial Term of this Agreement shall begin as of the date that this Agreement is signed and approved by the Local Committee, the Town, and the Operator and shall continue until Final Closure of the Solid Waste Facility.

Landfill Fund means the fund created under Exhibit "D".

Local Approvals means any local approval as "Local Approvals" are defined in sec. 144.445(3)(d), Wis. Stats., or its successor provisions.

Local Committee means the negotiating committee created under Chapter 144.445, Wis. Stats., which consists of four (4) Town of Darien and two (2) Walworth County members.

Long-Term Care or Long-Term Care Operations means any activities at the Solid Waste Facility, including routine care, maintenance and monitoring in the Active Fill Area where all the above-noted activities occur any time following the Final Closure of the Active Fill Area. Long-Term Care Operations by the Operator and by its agents shall not be considered Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area for purposes of this Agreement.

Nature Conservancy Area means the Active Fill Area at the Solid Waste Facility where after Final Closure the Operator will:

- (a) maintain this area such that it largely escapes unnatural environmental disturbances,
- (b) provide, at the discretion of the Operator, public access into this area for outdoor recreational or open space use at the area, and
- (c) provide the proper maintenance, monitoring, management, protection, husbandry and supervision to protect the natural resources located in this area and to prevent any unnecessary or undue environmental degradation in this area.

Operator means Waste Management of Wisconsin, Inc., its employees, agents, successors or assigns.

Pre-existing Local Approvals means any Pre-Existing Local Approvals as "Pre-Existing Local Approvals" are defined in sec. 144.445(3)(fm), Wis. Stats., or its successor provisions.

Remedial Actions means those actions consistent with a temporary or permanent remedy which are taken instead of or in addition to Removal Actions in the event of a release or threatened release at the Solid Waste Facility of any pollutant or contaminant into the environment, to prevent or minimize the release of such pollutants or contaminants such that the pollution or contamination does not migrate to cause any danger to the present or future public health or welfare of the residents of the Town of Darien or to the environment in the County of Walworth. The term includes, but is not limited to, actions at the location of the release of the pollutants or contaminants such as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, clean-up of released pollutants or contaminants, recycling or reuse of pollutants or contaminants, diversion of pollutants or contaminants, destruction of pollutants or contaminants, segregation of pollutants or contaminants, dredging or excavations, repair or replacement of leaking containers, collection of leachate and run-off, on-site treatment or incinerations, provision of alternative water supplies to residents in the County of Walworth and any monitoring reasonably required to assure that such actions protect the public health and welfare and



the environment. The term includes the permanent relocation of residents where the Department of Natural Resources determines such relocations are more cost-effective than and environmentally preferable to the transportation, Storage, Treatment, Destruction or secure disposition off-site of pollutants or contaminants or other actions that may be necessary to protect the public health or welfare of the residents of the Town of Darien or the County of Walworth. The term does not include off-site treatment of pollutants or contaminants or the Storage, Treatment, destruction or secure disposition off-site of such waste unless the Department of Natural Resources determines in writing that such actions are:

- (a) more cost-effective than other Remedial Actions, or
- (b) are necessary to protect the public health or welfare of the residents of the Town of Darien or the environment of the County of Walworth from a potential or present risk which may be created by further exposure to the continual presence of such pollutants or contaminants.

Removal Action means the clean-up action ("Removal Action") of released pollutants or contaminants from the environment including such actions as may be reasonably taken in the event of release of pollutants or contaminants into the environment from the Solid Waste Facility, such actions as may be necessary to monitor, assess and evaluate the release or threat of release of pollutants or contaminants, the disposal of removed pollutants or contaminants, or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare of the residents of the Town of Darien or to the environment in the County of Walworth, which may otherwise result

from a release or threat of release of pollutants or contaminants at or from the Solid Waste Facility. The term includes, in addition, without being limited to, security fencing or other measures to limit access to the Solid Waste Facility, provision of alternative water supplies to the residents of the County, temporary evacuation of the residents of the County and housing of threatened residents of the County.

Solid Waste means garbage, ash, refuse, rubbish, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded or salvageable materials, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities. Solid Waste may include, but is not limited to, paper, wood, metal, glass, cloth and products thereof; litter and street rubbish; and lumber, concrete, dirt, stone, plastic, bricks, tar, asphalt, plaster, masonry, and other debris resulting from the construction or the demolition of structures, buildings, roads and other manmade structures. Solid Waste does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Chapter 147, Wis. Stats., or its successor chapter, or sources, special nuclear or by-product materials as defined in sec. 140.52, Wis. Stats., or its successor section.

Solid Waste Facility means the solid waste disposal facility in the Town of Darien specifically depicted and described in Exhibit "B". It includes both the Active Fill Area and the other land described in Exhibit "B". It shall include the clay borrow areas.

Special Waste shall be that waste classified as "Special Waste" by the Department, Chapter 144 of the Wisconsin Statutes or Administrative Code regulations defining the same as such by the Department of Natural Resources or as set forth in Exhibit "F".

Standing Committee means the monitoring committee established under Exhibit "C".

Storage or Store means the holding of Solid Waste at the Solid Waste Facility, at the end of which period the Solid Waste is to be then treated, transported away from the Solid Waste Facility, or ultimately disposed of in the Active Fill Area at the Solid Waste Facility.

Storage Operations means any activities at the Solid Waste Facility related to the Storage of Solid Waste and where all the above-noted activities occur any time during the Initial Term of this Agreement.

Town means the Town of Darien, its officers, employees and agents.

Treat or Treatment means any method, technique or process at the Solid Waste Facility which is designed to change the physical, chemical or biological character or composition of the Solid Waste. Treatment includes incineration.



Treatment Operations means any activities at the Solid Waste Facility directly related to the Treatment of Solid Waste, where such activities occur any time during the Initial Term of this Agreement.

Waste Facility Siting Board means the Wisconsin Waste Facility Siting Board or its successor agency.

ARTICLE II  
BACKGROUND INFORMATION

1. SITE INFORMATION.

The name of the Solid Waste Facility is the Mallard Ridge Recycling and Disposal Facility, formerly known as the Turtle Creek Landfill, and also formerly known as the Greidanus Landfill. The Active Fill Area is described as the "Mallard Ridge Landfill, Northern Expansion" in the Feasibility Report submitted to the Department by the Operator.

2. ADDRESS OF SOLID WASTE FACILITY.

The address of this Solid Waste Facility, both for location and mailing purposes, shall be Route 2, Box 117, Delavan, Wisconsin 53115. The legal description of the property is set forth in Exhibit "B".

3. OWNER.

The current owner of the site is Waste Management of Wisconsin, Inc. Such corporation will be the Operator and is referred to as "Operator" or "Applicant" in this Agreement and the term "Operator" shall also refer to the corporation's employees, agents, successors or assigns. The Operator had a Feasibility Report ("Feasibility Report") prepared and submitted on October 30, 1989 to the Department. The Feasibility Report and any future amendments and modifications, specifically including those dated February 22, 1991, as approved by the Department, are incorporated in their entirety into this Agreement and specific standing is granted to the Town and County to enforce those terms. Similarly,

the Plan of Operation for the Active Fill Area and all future modifications and amendments to such Plan of Operation, as approved by the Department, are also incorporated by reference and may be separately enforced by the Town and County.

A. Design concept: The Active Fill Area is proposed as a groundwater separation, clay-lined landfill.

B. Total proposed design capacity: 5,197,000 cubic yards (total air space); 4,331,000 cubic yards (waste capacity).

C. Expected site life: 7 years.

D. Proposed date of closure: 1999.

E. Total acreage owned by the operator: 675 acres, which includes approximately 100 acres of clay borrow source property.

F. Proposed licensed acreage: 52 acres.

G. Compaction rate per cubic yard: 1,210 pounds per cubic yard of air space.

#### 4. CURRENT ZONING.

The parcel of property described in Exhibit "A" is comprised of two zoning districts: C-2 and M-4. This agreement will call for a waiver of any zoning prohibition against landfilling activities in the 52 acres in Exhibit "A", specifically, 42 acres of C-2 property, and 10 acres of M-4 property being subject to approval under Ch. 144, Wis. Stats. for landfilling activities, including active fill, berming, and other site activities. In addition, the areas set forth in Exhibit "G" "Clay Borrow Pits" shall also be rezoned and a conditional use permit granted for clay extraction pursuant to the terms of Exhibit "G".

5. SERVICE AREA.

For the purpose of this Agreement, the proposed service area shall be deemed to include, but not be limited to, Walworth County, Southeastern Dane County, Rock County, and Jefferson County, Wisconsin; and McHenry County, Boone County, and Winnebago County, Illinois.

6. ACCEPTABLE WASTE TYPES.

The acceptable waste types shall be non-hazardous municipal, commercial and industrial Solid Waste including refuse, garbage, combustible and noncombustible demolition waste. All Special Waste shall be accepted under the conditions set forth in Exhibit "F".

7. ESTIMATED WASTE QUANTITIES.

This Active Fill Area is proposed to average 7,150 tons per week, which is the equivalent of 11,825 cubic yards of waste per week. Total waste quantities are estimated to be 2.65 million tons, which equates to 380,000 ton per year for seven (7) years.

8. NOTICES.

Notices submitted to the Operator may be submitted in person or by first class mail to either of the following addresses:

Mallard Ridge Recycling and Disposal Facility  
Waste Management of Wisconsin, Inc.  
Route 2, Box 117  
Delavan, Wisconsin 53115  
Attention: Site Manager

Waste Management of Wisconsin, Inc.  
W124 N8925 Boundary Road  
Menomonee Falls, Wisconsin 53051  
Attention: Regional Landfill Vice President

The Operator shall provide contact persons at both addresses and shall be required to keep current telephone numbers available to the Town, County, and Standing Committee. Furthermore, a

twenty-four (24) hour emergency telephone number shall be provided at all times.



ARTICLE III  
TRANSPORTATION

1. DESIGNATED ROADWAYS.

A. Designated Authority.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not use and shall inform its agents and Acknowledged Transporters in writing, not to use any Town and County roadways located in the Town as a route for vehicle access to and from the Solid Waste Facility for purposes related to any Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations in the Active Fill Area or at any other location at the Solid Waste Facility, unless those roadways located in the Town are established and authorized by this Agreement as one of the designated primary roadway routes for purposes of vehicle access to and from the Solid Waste Facility. The Operator agrees not to knowingly accept for Disposal any Solid Waste transported to the Solid Waste Facility on roadways in the Town other than the designated primary roadway routes. This subsection establishing the designated primary roadway routes and then restricting the roadway use on other roadways in the Town shall not apply to the Operator, its agents, its Acknowledged Transporters, the Town and to any residents of the Town when these above-noted parties are collecting Solid Waste in the Town in vehicles and then transporting such Solid Waste in vehicles to the Solid Waste Facility for the purpose of Disposal of the Solid Waste

in the Active Fill Area at the Solid Waste Facility or for the purpose of Storage of the Solid Waste at the Solid Waste Facility.

This subsection shall not apply if the Town, the County, and the Operator, at any time, mutually agree in writing to establish any alternative routes or any additional routes in the Town for vehicle traffic access to and from the Solid Waste Facility for any Disposal Operations, Storage Operations, Treatment Operations or for any Long-Term Care Operations in the Active Fill Area or at any other location at the Solid Waste Facility. This subsection shall also apply to the Operator, its agents or its employees when these above-noted parties are transporting to or from the Solid Waste Facility construction materials to be used in the construction, maintenance, closure or Long-Term Care of the Solid Waste Facility.

B. Primary Roadways.

The Town, during the initial term and extending until forty (40) years after Final Closure, shall permit and designate these to be a Primary Roadway Route and shall authorize, pursuant to subsection "A", vehicle access to and from the Solid Waste Facility by the Operator or by its agents or its Acknowledged Transporters, the following roadway routes located in the Town:

- (1) for vehicle access and traffic flow to the Solid Waste Facility: State Highways 11, 14 and 89.
- (2) for vehicle access and traffic flow from the Solid Waste Facility: State Highways 11, 14 and 89.

The Operator and its agents shall only use, and shall notify its Authorized Transporters in writing to only use, the above-noted Primary Roadways for vehicle access to and from the Solid Waste Facility for Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations except as otherwise provided herein.

C. Reconstruction of Local Roads.

The Town, during the Initial Term and extending until forty (40) years after Final Closure, shall have the right at any time to suspend vehicle traffic flow to and from the Solid Waste Facility and to temporarily close that portion of the Primary Roadway Routes described above, in order to reconstruct, repair, resurface and to maintain any Town roads and shall have the right at any time to suspend vehicle traffic flow to and from the Solid Waste Facility and to temporarily close any roads at any time for emergency purposes.

D. Temporary Access Roadway. If, during the Initial Term and extending until forty (40) years after Final Closure, any portion of the designated Primary Roadways have been scheduled to be closed for reconstruction, repair, resurfacing or maintenance purposes or closed for emergency purposes, and if a written application has then been submitted to the Town by the Operator requesting that a temporary access roadway to the Solid Waste Facility in the Town be constructed and maintained by the Town, then the Town shall make all reasonable efforts to construct and maintain for the Operator, its agents and its Acknowledged

Transporters, when reasonable vehicle safety and reasonable personal safety can be assured and where road conditions will allow, an appropriate temporary access roadway in the Town at the Operator's cost, such costs to be reimbursed within thirty (30) days of presentation of an invoice to Operator. This roadway shall be constructed and maintained by the Town for vehicle use by the Operator, its agents and its Acknowledged Transporters. This temporary access roadway shall be constructed and maintained by the Town in an attempt to assure, at all times, vehicle access to and from the Solid Waste Facility by the Operator, its agents and its Acknowledged Transporters.

## 2. VEHICLE REQUIREMENTS.

During the Initial Term and extending until forty (40) years after Final Closure, regarding (a) the transporting of Solid Waste in the County to or from the Solid Waste Facility, (b) the Disposal by the Operator of Solid Waste in the Active Fill Area or at any other location at the Solid Waste Facility, and (c) the Disposal by its agents or Acknowledged Transporters of Solid Waste in the Active Fill Area or at any other location at the Solid Waste Facility, the Operator shall use transport vehicles and shall require its agents to use transport vehicles that are designed, constructed, loaded and maintained in such a manner and that are equipped with proper covers in such a manner as to prevent or substantially eliminate any portion of any Solid Waste in such transport vehicles from discharging, leaking, spilling, falling or



blowing out of such vehicles onto any public or private lands in the County, excluding the Active Fill Area.

The Operator shall not accept for Disposal at the Solid Waste Facility any Solid Waste that does not arrive at the Solid Waste Facility in transport vehicles that are designed, constructed, loaded and maintained in such a manner and that are equipped with proper covers in such a manner as to prevent or substantially eliminate any portion of any Solid Waste or Hazardous Waste in such transport vehicles from Discharging, leaking, spilling, falling or blowing out of such transport vehicles onto any public or private lands in Walworth County, excluding the Active Fill Area at the Solid Waste Facility.

3. LITTER AND DISCHARGE BEYOND THE SOLID WASTE FACILITY.

A. Solid Waste and Hazardous Waste Discharge Reports.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall report any Solid Waste or Hazardous Waste Discharge to the Town Clerk, County Solid Waste Management Board, and the Standing Committee in writing within forty-eight (48) hours of the Operator receiving any information related to any Discharge in Walworth County if such Discharge occurred when the Operator, its agents or Acknowledged Transporters were transporting authorized or unauthorized Solid Waste or Hazardous Waste to and from the Solid Waste Facility and if the Discharge occurrence was caused by the Operator or by its agents or Acknowledged Transporters. This provision does not apply to any



Solid Waste Disposed by Operator or by its agents or by any other parties in the Active Fill Area.

The Operator, upon oral or written knowledge of any Discharge by Operator or by its agents onto any public or private lands in Walworth County, other than any Solid Waste Disposed in the Active Fill Area, shall take, as soon as possible, all reasonable efforts to contain and then to remove the Discharge from these lands.

The Operator, upon oral or written knowledge of any Hazardous Waste Discharge onto any public or private lands in the County of Walworth by the Operator or its agents, shall take: (a) as soon as possible, all reasonable actions to contain and, remove the Hazardous Waste, (b) as soon as possible, all reasonable actions to protect the public health and safety of persons in the County of Walworth, and (c) as soon as possible, shall take all reasonable actions to protect the natural resources in the County of Walworth.

The Operator shall, in its written notice describe the location of the Discharge, the date of the occurrence, if known, the type and amount of the Solid Waste or Hazardous Waste Discharge, if known, and the suspected cause of the Discharge, if known.

B. Discharge Removal on Roadways.

The Operator, during the Initial Term, shall police and remove any Discharge, including litter, from the roadways or from rights-of-way next to the Primary Roadways within the Town within

one mile of the entrance of the Solid Waste Facility. County Trunk Highway "C" shall be included as a Primary Roadway for this section.

4. TRANSPORTERS OF SOLID WASTE.

A. List of Transporters.

Within thirty (30) days after beginning to accept Solid Waste for Disposal at the Active Fill Area, the Operator shall prepare a list of its Acknowledged Transporters. The list shall contain the names, addresses and telephone numbers of the Acknowledged Transporters. The initial list shall be filed with the Town Clerk and the County Clerk and shall be updated quarterly beginning at the end of the first quarter after acceptance of Solid Waste by the Operator for disposal at the Active Fill Area. Such updates shall be submitted to the Town Clerk, County Solid Waste Management Board, County Clerk, and Standing Committee.

This provision, requiring names, addresses and telephone numbers of Acknowledged Transporters shall not apply to the Town or to the residents of the Town authorized by this Agreement to Store Solid Waste at the Solid Waste Facility or dispose of Solid Waste at the Active Fill Area.

B. Persons Authorized.

No party, including the Operator, shall, during the Initial Term, transport Solid Waste to the Active Fill Area, until a license has been issued by the Department, and the Operator has complied with all applicable Solid Waste statutes and regulations related to the operation of the Active Fill Area. The Operator

shall not Store or Treat Solid Waste or authorize any other parties to Store or Treat Solid Waste in the Active Fill Area, except as noted below, or at any location at the Solid Waste Facility, unless such activity has been approved by the Department and then only if the Operator has complied, or will comply, with any existing federal and state Solid Waste Disposal Facility laws and regulations, and municipal ordinances that are not made inapplicable by this Agreement. This restriction authorizing only the transportation to and from the Solid Waste Facility and Storage and/or Disposal of Solid Waste in the Active Fill Area or at any other location at the Solid Waste Facility to certain parties noted above shall neither apply to the Town and its residents who may be authorized by the Operator to Store residential Solid Waste collected from residences in the Town or at a transfer station or at Storage containers located at the Solid Waste Facility or elsewhere in the County nor to the Storage by the Operator of inert Demolition Waste, recyclable materials, shredded tires and/or compostable material, as authorized by the Department.

Notwithstanding any other provision of this section, Operator shall permit any Solid Waste transporter who has been licensed by the Department access to the site for purposes of Disposing waste therein at rates that do not exceed by more than 40% those rates charged to the Operator or any of its subsidiary corporations; provided said transporter is in full compliance with the terms and conditions of this Agreement and is deemed creditworthy by the Operator. Such competing waste haulers shall

be notified as provided for in Article IV, Section 1.E. of this Agreement and given a reasonable time to comply with the provisions of this Agreement.



ARTICLE IV  
OPERATIONS AT OR NEAR THE SOLID WASTE FACILITY

1. REPORTS TO THE TOWN AND COUNTY.

A. Notice of Reports from the Operator.

The Town, Standing Committee, and County Solid Waste Management Board, during the Initial Term and extending until forty (40) years after Final Closure, shall receive from the Operator written copies, within seven (7) days of distribution by the Operator, written reports and written correspondence provided by the Operator to the Department of Natural Resources or to any other state or federal environmental agency or to any state or federal court where those reports and correspondence are associated with the Solid Waste Facility, including, but not limited to, letters, court documents, technical reports, testing data, recording data and monitoring data. These copies shall be provided by the Operator at no cost.

B. Notice of Reports from Government Agencies.

The Town, Standing Committee, and County Solid Waste Management Board, during the Initial Term and extending until forty (40) years after Final Closure, shall receive from the Operator written copies, within seven (7) days of receipt by the Operator, of all written reports and written correspondence received by the Operator from the Department of Natural Resources or from any other state or federal environmental agency or from any state or federal court when these reports and correspondence are associated with the Solid Waste Facility, including but not limited to, letters, court



documents, technical reports, testing data, recording data and monitoring data. These copies shall be provided by the Operator at no cost.

C. Town and County Residential Concerns.

The Town, Standing Committee, and County Solid Waste Management Board, during the Initial Term and extending until forty (40) years after Final Closure, shall each receive from the Operator one set of copies, within seven (7) days of receipt by the Operator, of all written letters, written reports and other written correspondence received by the Operator from public officials of the County, public officials of the Town, or from any resident of the County where the above-noted letters, reports or correspondence are associated in any way with the Solid Waste Facility. These letters, reports or correspondence shall include but are not limited to, complaint letters, court documents, technical reports, testing data, recording data and monitoring data. These copies shall be provided by the Operator at no cost.

D. Operator Responsibility to the Town and County.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall be fully responsible to the Town and County to take reasonable steps to insure that the Operator and Acknowledged Transporters and their employees and agents transport Solid Waste to and from the Solid Waste Facility and conduct any other Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations related to or at the Solid Waste Facility, in full compliance with the applicable

provisions of this Agreement. The Operator shall not allow access by its agents, by its Acknowledged Transporters or by any other party to the Solid Waste Facility for purposes of Disposing, Storing or Treating of Solid Waste or Hazardous Waste in the Active Fill Area or for any other purposes associated with any Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations related to or at the Solid Waste Facility, if the Operator has knowledge that the above-noted agents, Acknowledged Transporters or other parties are not complying or have not complied with the applicable provisions of this Agreement, including but not limited to, the following sections:

- (a) Article III, Section 1 - Designated Roadways
- (b) Article III, Section 2 - Vehicle Requirements
- (c) Article III, Section 3 - Litter and Discharge  
Beyond the Solid Waste Facility
- (d) Article III, Section 4 - Transporters of Solid  
Waste
- (e) Article IV, Section 2 - Hours and Days of Operation
- (f) Article IV, Section 7 - Fire, Disaster and Hazard  
Control
- (g) Article IV, Section 23 - Prohibition Against  
Hazardous Waste Disposal

E. Notice of Agreement.

The Operator, during the Initial Term, shall notify in writing its agents and the Acknowledged Transporters who are allowed by the Operator to transport Solid Waste to and from the

Solid Waste Facility for Disposal in the Active Fill Area of the applicable provisions of this Agreement. Such written notice shall be provided to such agents and Acknowledged Transporters when they commence transporting Solid Waste.

## 2. HOURS AND DAYS OF OPERATIONS

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not conduct any construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility nor shall it allow any construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations by its agents, by its Acknowledged Transporters or by any other parties at the Solid Waste Facility, before 6:30 a.m., Monday through Saturday. The Operator will be permitted to warm up the equipment and vehicles at 6:00 a.m. Monday through Friday. The Operator shall terminate all construction, Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations and it shall not allow any construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations by its agents, by its Acknowledged Transporters or by any other parties at the Solid Waste Facility, after 5:00 p.m., Monday through Friday, and after 12:30 p.m. on Saturday. Covering operations may continue until 1:00 p.m. on Saturdays. The Operator shall not conduct any construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations, nor shall it allow any construction, Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations by its agents, by

its Acknowledged Transporters or by any other parties at the Solid Waste Facility on Sundays or on the following holidays: Christmas Day, Easter, Thanksgiving, Labor Day, New Year's Day, Memorial Day and Independence Day. Any "operation" herein shall be deemed to include the operation of any vehicles, machinery or equipment.

Notwithstanding the above-noted provisions, if any Emergency should occur at the Solid Waste Facility, the Town and/or County shall be allowed to enter the Solid Waste Facility at any time and shall be allowed to then take the appropriate and necessary actions at the Solid Waste Facility to protect the public health, welfare and safety of persons in the Town and County, to protect public or private property other than the Solid Waste Facility, and shall be allowed to take appropriate and necessary actions to protect the natural resources of the Town and County. Such actions in an Emergency shall not include Disposal, Storage or Treatment of Solid Waste at the Solid Waste Facility.

In addition, the above-noted hours and days of operation may be amended by mutual written agreement of the Town and Operator.



### 3. DUST, DIRT AND DEBRIS CONTROL AT THE SOLID WASTE FACILITY.

The Operator, during the Initial Term and specifically including the construction phase, such phase being considered a part of the Initial Term, and extending until forty (40) years after Final Closure, shall take the appropriate and necessary actions to control the blowing of dust and debris from the Solid Waste Facility and shall take appropriate or necessary actions to control the Discharging of other Solid Waste or pollutants or contaminants from the Solid Waste Facility onto any lands outside the Solid Waste Facility. The Operator shall Dispose Solid Waste in the Active Fill Area at and shall conduct any construction, Disposal Operations, Storage Operations, Treatment Operations, clay extraction and Long-Term Care Operations at the Solid Waste Facility in such a manner that utilizes available technology, equipment and manpower to minimize odors, litter, dust, dirt, debris or other materials or any substance that might be carried by wind or other means across the boundary of the Solid Waste Facility onto any lands outside the Solid Waste Facility. The Operator shall apply all appropriate or necessary cover materials on the Solid Waste Disposed in the Active Fill Area to prevent the blowing of litter and debris.

### 4. GROUNDWATER MONITORING.

The Operator shall undertake the groundwater monitoring program (including private wells) required by the Department, imposed as a condition of its finding of feasibility, or any subsequent requirement made by the Department to test groundwater or private wells. The Operator shall also take water samples of



all of the wells identified in Exhibit "H" and perform background tests for all of the parameters described in that Exhibit. Similarly, the Operator shall take background tests of Turtle Creek and shall continue monitoring the same as set forth in Exhibit "H".

5. NOISE AND AIR QUALITY.

The Operator shall comply with all reasonable noise control measures as requested by the Standing Committee. In no event shall the noise created by the Operator causes the noise level at any non-Operator owned residential property in the vicinity of the Solid Waste Facility site to exceed 80 decibels, as indicated in a certified decibel meter reading. The Operator shall also meet all air quality standards as set forth in Exhibit "E".

6. RODENT AND INSECT CONTROL AT THE SOLID WASTE FACILITY.

A. Prevention of Rodents and Insects.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall Dispose Solid Waste in the Active Fill Area and shall conduct any Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent or eliminate rodent and insect harborage.

B. Control of Rodents and Insects.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall take appropriate and necessary actions to control any rodents and any insects at the Active Fill Area. The Operator shall exterminate, for public health

reasons, any rodents and insects at the Active Fill Area. The Operator shall apply at the Active Fill Area, the pesticides or rodent control measures at appropriate levels to prevent any damage to or injury to public property or private property in the Town and to prevent damage or injury to any persons in the County and to prevent damage to the natural resources in the County.

7. FIRE, DISASTER AND HAZARD CONTROL.

A. Creation of Fire Hazards.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall Dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent fires and explosions from occurring at the Solid Waste Facility and to prevent or eliminate any fire hazards or any potentially explosive hazards from occurring at the Solid Waste Facility.

B. Public Nuisance.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any Disposal Operations, any Storage Operations, any Treatment Operations and any Long-Term Care Operations at the Solid Waste Facility in such a manner as to prevent any public nuisance in the Town or County from occurring relating to the Solid Waste Facility

or its operations, including public nuisances associated with polluted groundwater, polluted air and polluted surface water.

C. Private Nuisance.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall dispose Solid Waste in the Active Fill Area at the Solid Waste Facility and shall conduct any disposal operations, any storage operations, any treatment operations, and any long-term care operations at the Solid Waste Facility, in such a manner as to prevent any private nuisance in the Town or County from occurring as a result of the Solid Waste Facility or its operations, including any private nuisances associated with polluted ground water, polluted air, and polluted surface water. In the event that a private nuisance occurs, or in the event that the Operator causes any individual property owner damages or other harm which forms the basis of a cause of action, including trespass, negligence, or any other violation of this Agreement for which an individual is aggrieved, such individual or individuals may bring an action against the Operator for appropriate relief. In the event that such individual or individuals prevail, they shall be entitled to their reasonable attorney's fees and costs in prosecuting such action.

D. Hazardous Waste Nuisance.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not, at any time, Dispose, Store or Treat Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility nor shall it

allow Disposal, Storage or Treatment of Hazardous Waste by its agents, by its Acknowledged Transporters, or by any other party in the Active Fill Area or at any other location at the Solid Waste Facility. The Operator, whenever appropriate and necessary, shall separate, remove, contain, cover or isolate any particular Solid Waste or any particular Hazardous Waste that has been Disposed, Stored or Treated in the Active Fill Area or at any other location at the Solid Waste Facility in such a manner as to prevent a public or private nuisance in the Town, to prevent any liberation of hazardous or poisonous gas from the Solid Waste Facility to any other location in the County, to prevent any liberation of Hazardous Waste from the Solid Waste Facility to any other location in the County or to prevent any damage to the natural resources of the County. Enforcement of this paragraph shall be as set forth under paragraphs B and C herein.

E. Security Personnel.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall have the responsibility and duty to the Town to employ or retain at the Solid Waste Facility the appropriate and necessary employees or personnel to provide and maintain proper security in the Active Fill Area or at any other location at the Solid Waste Facility for the purpose of preventing or substantially reducing any physical access by unauthorized parties to the Solid Waste Facility.



8. COURT ACTION BY THE TOWN, COUNTY OR STANDING COMMITTEE.

The Town, County or Standing Committee, during the Initial Term and extending until forty (40) years after Final Closure, notwithstanding any contrary provisions of this Agreement, may commence and maintain individually or jointly legal actions against the Operator under the common law of public nuisance, trespass, negligence, strict liability, breach of contract, agency or under any applicable state and federal statutory or common laws, for damages and costs suffered by the Town or the County, related to or associated with any public nuisance or physical injury to any party or any property caused by or alleged to have been caused by the Operator arising in any way as a result of any anticipated or unanticipated occurrences in the Town or County related to or associated with the Solid Waste Facility which are caused by the Operator or its agents, including but not limited to, occurrences related to or associated with Disposal, Storage or Treatment of Solid Waste or Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility, occurrences related to or associated with the transportation of Solid Waste or Hazardous Waste to and from the Solid Waste Facility by the Operator or by its agents and any occurrences related to or associated with any Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility.

If the Town, County or Standing Committee prevail in any such action as noted above against the Operator, the Operator shall be liable for any and all costs and damages suffered by the Town,

County or their residents. The Town, County, or Standing Committee shall be entitled to seek and receive abatement of any public nuisance that may be related to or associated with the Solid Waste Facility which they have proved to be caused by the Operator or its agents.

In addition, the prevailing party, in any such legal action or in any action enforcing any term of this Agreement found to have been violated, shall be awarded by the court its reasonable attorneys' fees, its reasonable experts' fees and any other reasonable legal costs.

9. ADMINISTRATIVE ACTION.

The Town, County or Standing Committee, during the Initial Term and extending until forty (40) years after Final Closure, notwithstanding any provisions of this Agreement, may petition the Department under sec. 144.465, Wis. Stats., or sec. 144.725, Wis. Stats., or their successor provisions, to initiate action by the Department against the Operator for a violation or alleged violation by the Operator of any rule promulgated or special order, plan approval, license or any term or other condition of a license established by or issued by the Department wherein any such violation or alleged violation is related to or associated with the Solid Waste Facility. Operator retains the right to assert any defense it may have related to any petition(s).

10. TEMPORARY/EMERGENCY CLOSURE OF ACTIVE FILL AREA .

During the Initial Term, the Operator shall notify in writing within forty-eight (48) hours, the Clerk for the Town, Standing

Committee and Walworth County Solid Waste Management Board regarding any temporary, Emergency or Final Closure of the Active Fill Area, including any ordered temporary, Emergency or Final Closure of the Active Fill Area wherein such order is made by the Department, or by any other state or federal agency or by any state or federal court. The Operator shall provide in its written notice to the Town and County the specific reasons, if known, for a temporary, Emergency or Final Closure of the Active Fill Area.

11. ACCESS TO THE SOLID WASTE FACILITY.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall allow the Town, Standing Committee and the County by their officers, employees or agents, the right to immediately obtain access to and enter the Solid Waste Facility during any Emergencies at the Solid Waste Facility. They, in addition, shall have the right to obtain access and to enter the Solid Waste Facility during all other times upon twenty-four (24) hours oral or written notice from the Town, Standing Committee or County. Physical access to the Solid Waste Facility shall be allowed:

- (a) to inspect and monitor Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility,
- (b) to sample and test groundwater, leachate and air quality at the Solid Waste Facility (provided that any sampling or testing must be performed by a licensed professional engineer using methods and



materials approved by the Department of Natural Resources), and further provided that access to the monitoring wells shall be available only when an employee of the Operator is present,

- (c) to sample and test characteristics of the Solid Waste at the Solid Waste Facility, or
- (d) to take any appropriate and necessary action at the Solid Waste Facility during any Emergency to protect the public health, safety and welfare of the residents of the Town and County and/or to take any appropriate and necessary action to protect the natural resources of the Town and County.

At all times, the designated officers, employees or agents of the Town, Standing Committee or County shall be accompanied by one or more employees or agents of the Operator, if they are made available. In addition, the activities of the designated officers, employees or agents shall be conducted so as to not interfere with the normal business operations at the Solid Waste Facility.

12. REPAIR, MAINTENANCE AND RECONSTRUCTION OF THE ACTIVE FILL AREA.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall have the responsibility and duty to the Town and the County to properly and timely maintain, repair, reconstruct and to properly and timely provide Long-Term Care of the Active Fill Area and/or, if appropriate and necessary, to temporarily or permanently close the Active Fill Area, if at any time the failure by the Operator to properly and



timely maintain, repair, reconstruct or to properly and timely provide Long-Term Care of the Active Fill Area and/or its failure to temporarily or permanently close the Active Fill Area for Disposal Operations is likely to present a substantial danger of creating a public or private nuisance in the Town or County or is likely to create a substantial danger to the public health, safety or welfare of any persons in the Town and County or is likely to cause substantial damage to the natural resources in the Town and County. Enforcement of this paragraph shall be as set forth under Section 7, paragraphs B and C of this article.

13. HAZARDOUS WASTE DISPOSAL NOTICE.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, upon its receipt of any information that any Hazardous Waste has been transported to the Solid Waste Facility or that any Hazardous Waste has been Stored, Treated, Disposed or handled in any way by the Operator, by its agents, by its Acknowledged Transporters or by any other parties in the Active Fill Area or any other location at the Solid Waste Facility, shall then give notice orally within twenty-four (24) hours of its receipt of the information to the Town Clerk, Standing Committee and County Solid Waste Management Board. The Operator shall, in addition, notify the above-noted parties in writing within forty-eight (48) hours of the receipt of this information. Such notice shall describe the date of the occurrence and the type, amount and source of Hazardous Waste. The Operator shall, upon receipt of such information, immediately commence any appropriate

and necessary action to properly remove or to properly contain the Hazardous Waste at the Solid Waste Facility.

14. HAZARDS NOTICE.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall orally notify the Town, Standing Committee and County Solid Waste Management Board within twenty-four (24) hours of the receipt of information by the Operator of the following known or suspected hazards or known or suspected occurrences in the Active Fill Area or at any other location at the Solid Waste Facility: fires, explosions, contaminated or polluted surface water, contaminated or polluted groundwater, explosive or combustible gases and hazardous gases or hazardous dust. The Operator shall, in addition, report in writing within forty-eight (48) hours of the receipt of the information by the Operator regarding the above-noted known or suspected hazards and known or suspected occurrences, describing in detail the above-noted known or suspected hazards or known or suspected occurrences, the location of such hazards or occurrences, any incidents of damages to persons or property that may have occurred as a result of the above-noted known or suspected hazards or occurrences and any actions taken or actions to be taken in the future by the Operator regarding the above-noted known or suspected hazards or known or suspected occurrences.

15. RESPONSIBLE MANAGERS.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall provide to the Town,

Standing Committee and County Solid Waste Management Board, the names, titles, addresses and telephone numbers of any responsible manager or responsible managers retained by or employed by the Operator whose responsibilities to the Operator and whose authority from the Operator shall be to manage, control and administer the Disposal of Solid Waste in the Active Fill Area and to manage, control and administer any Disposal Operations, Storage Operations, site construction operations, Treatment Operations and Long-Term Care Operations at or related to the Solid Waste Facility. The names or titles, addresses and telephone numbers of the responsible managers shall be provided within twenty (20) days after the Agreement is executed by the Negotiating Committee, Town and the Operator, and shall be updated whenever necessary thereafter, in writing, to provide the most current names or titles, addresses and telephone numbers of the current responsible manager or responsible managers.

16. HEIGHT RESTRICTIONS.

The maximum height of the proposed Active Fill Area shall not exceed 1,096 feet above sea level. The bottom of the Active Fill Area shall be a minimum of 16 feet above the highest groundwater level, unless a more restrictive requirement is set forth in the Plan of Operation or any modification thereof.

17. EROSION AND RUN-OFF.

A. Erosion Restrictions.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, will control surface water



runoff and erosion by compliance with surface water control provisions of the Plan of Operation for the Solid Waste Facility on file with the Department of Natural Resources. All clay extraction shall comply with all conditions of the County Conditional Use Permit(s).

B. Abatement of Erosion.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, upon written notice by the Town, Standing Committee or County describing to the Operator the location of any surface water run-off or erosion discharged from the Active Fill Area onto any other lands located in the Town and County which violates the Plan of Operation on file with the Department shall, within three (3) days of receipt of the written notice, take appropriate and necessary actions to abate or remove the described run-off or erosion from such other lands, subject to the Operator's rights to challenge the same under Article V, Section 3, subsection "A".

18. STANDING OPEN WATER AND WETLANDS.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall take appropriate action to prevent the standing of water at the Solid Waste Facility, except for those sedimentation basins and ponds approved by the Department.

19. SURFACE WATER.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall take the appropriate



and necessary actions to direct all surface water coming in contact with any Solid Waste at the Active Fill Area into an appropriately-maintained leachate collection system. The Operator shall take the appropriate and necessary actions to direct all surface water not coming into contact with the Solid Waste into the appropriately - maintained sedimentation basin located at the Solid Waste Facility. The Operator shall not discharge water nor shall it allow the discharge of water from any sedimentation basin at the Solid Waste Facility into any surface water drainage area at the Solid Waste Facility until the surface water discharge complies with the appropriate regulations and requirements of the Department.

#### 20. OPEN GREEN SPACE

The Operator, from the date of Final Closure and extending until forty (40) years after Final closure, shall establish the Active Fill Area as an open green space. Open green space shall refer to a treeless, undisturbed, unimproved vegetated area consistent with the intent of preserving the integrity of the closed Active Fill Area. The uses, activities and operation at the Active Fill Area shall be consistent with maintaining the long-term environmental stability and physical integrity of the closed Active Fill Area as may be required by the Department.

#### 21. POST CLOSURE ALIENATION.

After Final Closure, the Operator agrees not to sell, transfer, or convey any interest in either the property upon which the Active Fill Area is proposed to be located or any interest in the post-closure operation itself (including the sale or assignment

to a third party of the right to collect, transport, sell or make other use of the by-products generated by the Active Fill Area) without the written approval of the Town and the County, which approval shall not be unreasonably withheld. Gas extraction and the sale thereof shall be permitted.

22. TREE REPLACEMENT.

In consideration of the removal of existing trees in the landfillable footprint of the Active Fill Area, the Operator will plant trees on 43 acres of the former Pounder property within twelve (12) months after closure of each phase of the Clay Borrow areas at a cost to the Operator not to exceed Fifteen Thousand Dollars (\$15,000). Trees shall be planted and maintained for not less than twenty (20) years under the direction of the Walworth County Land Conservationist and shall be placed in a permanent conservancy easement not to be cut, logged, or removed unless specifically authorized by the Town. The Town and County waive any stumpage or cutting fee, tax, or charge for the removal of existing trees, which the Operator may otherwise have been required to pay under current Town or County ordinances.

23. PROHIBITION AGAINST HAZARDOUS WASTE DISPOSAL.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not knowingly transport Hazardous Waste to the Solid Waste Facility nor shall it knowingly Dispose Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility. The Operator, in addition, shall not knowingly allow its agents, its Acknowledged Transporters

or any other parties to transport Hazardous Waste to the Solid Waste Facility nor shall it knowingly allow the above-noted parties to Dispose Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility. This provision shall in no way be construed or interpreted by any person or persons to be less stringent than any regulations of the Department relating to the Disposal, Storage or Treatment of Hazardous Waste at any location, including in the Active Fill Area and at any other location at the Solid Waste Facility. This provision shall in no way be construed or interpreted by any person or persons to mean that the Town or County authorize or approve in any way of the Disposal, Storage or Treatment of Hazardous Waste at the Solid Waste Facility or at any operations related thereto.

24. CHANGE IN OWNERSHIP.

A. This Agreement shall be applicable to the present Operator, Waste Management of Wisconsin, Inc., its successors and assigns, and to all parties to which the Operator may transfer any or all of its ownership interests or contracts or subcontracts concerning its operations in and responsibilities concerning the Solid Waste Facility.

B. That in conjunction with Paragraph A, the Operator, shall notify the Town, County, and the Department of any and all changes in ownership or operation of the Solid Waste Facility, and provide proof that any such successor or assign has notice and acknowledges this Agreement and the duties and obligations hereunder.



C. That in conjunction with the foregoing, the Operator shall not transfer any of its interest in the operation of the Solid Waste Facility or of its property interests in the Solid Waste Facility unless such party or entity can be demonstrated by the Operator to have the ability, both financial and operational, to comply with the terms of this Agreement, the Department and/or the landfill license, and State law. The Operator shall provide documentation sufficient to demonstrate the same prior to transferring any Such interests. The Town and County shall have standing to challenge such transfer if the transferee is not found to be financially able or otherwise able to comply with the requirements of this Agreement, the Department landfill license and State law. The Town and the County shall have sixty (60) days from receipt of the aforementioned documentation in which to bring action in circuit court to prevent or avoid such transfer, unless such deadline is extended by mutual agreement of the Town, the County and the Operator.

25. OPERATION TERMS.

A. Initial Term and Extension.

The length of the Initial Term of this Agreement shall be as defined in Article 1.

B. Disposal Operations, Storage Operations and Treatment Operations.

During the Initial Term, the Operator shall be allowed to construct, repair, maintain and close the Solid Waste Facility and it shall also be allowed to continue to conduct Solid Waste Disposal Operations on the currently-licensed facility and at the



Active Fill Area without any further payment to the Town or County of any fees, charges, taxes (except real and personal property), and without the further issuance of any licenses, approvals or permits, and without being subject to any further conditions, except as specifically provided for in this Agreement. It is the intent of the parties that this Agreement supersedes any and all fees, charges, taxes (except real and personal property), licenses, approvals and permits imposed by Town and County ordinances, except as specifically provided for in this agreement. Further, the Operator shall be permitted to extract clay as described in Exhibit "G" without any further payment to the Town or County of fees, charges, taxes (except real and personal property).

However, during the Initial Term, the Operator shall conduct Solid Waste Disposal and it shall only allow Solid Waste Disposal Operations by its agents at the Solid Waste Facility subject to the requirements and specific provisions established in this Agreement.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not conduct Storage Operations nor shall it allow any Storage Operations at the Active Fill Area, except as noted below, unless with the written approval of the Department, and compliance with all applicable ordinances of the Town and County.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall not conduct Treatment Operations nor shall it allow any Treatment Operations at the

Active Fill Area, except with the written approval of the Department, and compliance with all applicable ordinances of the Town and County.

This above-noted provision restricting Storage and Storage Operations by the Operator at the Solid Waste Facility shall not apply to the Operator when the Town and the residents of the Town have been authorized to Store Solid Waste collected from only Solid Waste sources in the Town at the transfer station or at any Storage containers.

This section shall not apply to existing operations currently permitted by the Department.

C. Initial Operations, Closure Operations And Post-Closure Operations.

The Operator, during the Initial Term, shall be fully responsible to the Town and County to properly maintain, properly construct, properly repair and to properly close the Active Fill Area at the Solid Waste Facility and to properly conduct the Disposal Operations and authorized Storage and Treatment Operations at the Solid Waste Facility.

The Operator, after the date of Final Closure and extending until forty (40) years after Final Closure, shall be responsible to the Town and County to provide the proper Long-Term Care Operations at the Active Fill Area.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall be responsible to the Town and County to take any appropriate and necessary removal or remedial actions at the Active Fill Area.

The Operator, after the date of Final Closure, shall cease transportation of Solid Waste to the Active Fill Area and shall prevent any further transportation of Solid Waste to the Active Fill Area at the Solid Waste Facility, shall cease Disposal of any Solid Waste and shall prevent any further Disposal of Solid Waste at the Active Fill Area, and shall not conduct any Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area or at any other location at the Solid Waste Facility and shall not allow any Disposal Operations, Storage Operations or Treatment Operations at the Active Fill Area or at any other location at the Solid Waste Facility, unless an Expansion has been approved by the Department and if, in addition, the Operator has complied with or will comply with any existing federal and state Solid Waste Facility laws and regulations applicable at the time of the approved Expansion.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, may conduct Solid Waste Disposal Operations, Solid Waste Storage Operations or Solid Waste Treatment Operations at any locations, excluding at the Active Fill Area at the Solid Waste Facility, if such Disposal Operations, Storage Operations or Treatment Operations at the Solid Waste Facility are an Expansion of the Solid Waste Facility and such Expansion has been approved by the Department and if, in addition, the Operator has complied with or will comply with any existing federal and state Solid Waste Disposal Facility laws and regulations applicable at the time of the approved Expansion.



D. Expansion.

The Active Fill Area shall not be expanded unless approved by the Department and as otherwise provided in this Agreement. If the Operator (or its successors or assigns) proposes an Expansion, it shall prepare and submit an Initial Site Report (hereinafter referred to as "I.S.R.") to the Town, the County, and the Department of Natural Resources. The Operator shall submit the I.S.R. to the Town and the County by certified mail with a separate written notice stating that it desires an Expansion and that the Town and the County have six (6) months to either renew this Agreement as hereinafter provided or reject the same.

Upon receipt of the notice and I.S.R., the Town and the County shall have six (6) months to renew and continue this Agreement. If not renewed, this Agreement will expire at such time that the Active Fill Area reaches Final Closure.

If the Town and County choose to renew this Agreement and continue its applicability to the Expansion proposed in the I.S.R., they shall formally do so by motion or resolution within the six (6) month period and notify the Applicant by certified mail or personal delivery of such action.

The parties agree that if this Agreement is renewed by the Town and the County all terms and conditions stated in this Agreement shall be binding on both parties and applicable to the proposed Expansion, except as follows: The parties agree that the direct payment to the Town and the County shall continue at the applicable annual rates as set forth herein. If the Expansion is



approved and the Town elects to continue this Agreement, the rates set forth herein shall continue to increase at the rate of eight percent (8%) per year. Payments shall continue on a quarterly basis.

If this Agreement is not renewed, the parties will proceed under the then existing law. The parties may extend the six (6) month option period by mutual agreement.

If the I.S.R. is not required or permitted by law at the time the Applicant seeks Expansion, the Operator shall submit similar information to the Town and the County with its notice in lieu of the I.S.R.; however, such information shall include but not be limited to: location, site parameters, elevations, capacity, projected site life, site access, and groundwater monitoring program.

#### E. Local Approvals.

By adoption of a resolution authorizing the execution of this Agreement, the Town, through the Town Board, does hereby waive all applicable Local Approvals, Pre-Existing Local Approval, regulations, permits, licenses, and ordinances that may be required of the Operator to allow it to construct, operate, maintain, repair, close and to provide Long-Term Care of the Active Fill Area, and to continue to conduct such activities on the currently-licensed landfill; to undertake any remedial investigations and feasibility studies of the original landfill and the implementation of any Removal and/or Remedial Actions required by USEPA. This will include waiver of enforcement of these Local

Approvals, Pre-Existing Local Approvals, regulations, permits and licenses and ordinances. This waiver shall continue until forty (40) years after Final Closure or until the Long-Term Care responsibility of the Operator ceases. However, this waiver does not extend to any Expansion. The waiver shall extend to Long-Term Care Operations which the Operator must undertake pursuant to the Department's regulations pertaining to the Solid Waste Facility.

These regulatory and enforcement waiver provisions do not apply to any persons other than the Operator, its officers, its employees, its Agents, and its Acknowledged Transporters.

These regulatory and enforcement waiver provisions do not apply for any other uses, operations or businesses at the Solid Waste Facility except: (1) those uses, operations and businesses that are directly and specifically related to and consistent with Solid Waste Disposal Operations of the Active Fill Area and at the currently-licensed facility, (2) those uses that are being undertaken by the Operator at the time of execution of this Agreement; and (3) the expansion of recycling operations at the Landfill to permit on-site sorting, compacting, crushing, baling, densifying, and chipping of recyclable materials, but not to include melting and smelting, or any other process involving the actual reuse or remanufacture of recyclables.

Notwithstanding, the foregoing, these regulatory and enforcement waiver provisions do not include speed limits, issuance of Waste hauler permits (with a fee not to exceed what is reasonable and customary), litter control, building permits, rules

of the road, road obstruction, excavation powers, fire safety permits, or off-site zoning. Any recycling involving melting, smelting, or other remanufacture or reuse of recyclables, or any tire shredding or composting beyond that currently undertaken shall be subject to the conditional use permit and permit process as set forth in the Town and County ordinances. Any other use of the property not hereinbefore referenced shall be approved by the Town and County pursuant to the normal procedures involved with obtaining conditional use permits in M-4 zoning or the existing zoning of the property upon which such use is sought. This agreement specifically supersedes the County zoning to the extent such uses are consistent with those permitted in this section on the property described in Exhibit "B" and referred to in this agreement as the Solid Waste Facility.

These regulatory and enforcement waiver provisions do not apply in any way to waive any authority the Town or the County may have now or may in the future have to control or regulate, by regulation, ordinance, permit, license or by order, the uses, operations and businesses at the Solid Waste Facility or at the currently-licensed facility, where these orders, permits, licenses or ordinances are deemed necessary by the Town Board or the County Board to protect the public health, safety, and welfare, or prevent a public nuisance.

The parties stipulate that the Town is the approving governing body for purposes of this agreement as set forth under § 144.445(9), Wis. Stats. and that the County Board need not take



any further action with respect to the M-4 zoning or conditional use permits as may apply to the Active Fill Area. The parties agree that the County shall consider the Clay Borrow areas as referenced in Exhibit "G" and issue zoning and appropriate conditional use permits sufficient to permit the Operator to extract clay to construct, operate, and close the Active Fill Area. To the extent the County does not approve the rezoning and conditional use permits as required by this section within six (6) months of the date the Agreement is signed by the Negotiating Committee, the Town and the Operator, then the "premium for out-of-state waste" set forth in Section VI, paragraph 2, shall be waived and no extra premium for out-of-state wastes shall be paid. If the County is unable to approve the rezone or conditional use permit due to the Operator having an existing zoning violation(s) in the Solid Waste Facility, then the six (6) month period shall be extended until at least four (4) months after such violations are corrected or the County has issued an approval of a plan to correct such violation(s), such that the zoning and condition use process may continue.

26. STANDING COMMITTEE.

The Operator and the Local Committee shall agree to the formation of a Standing Committee ("Committee") which would consist of three (3) residents of the Town appointed by the Town Board, the Walworth County Solid Waste Management manager or his designee, and one (1) representative appointed by the Operator. The Committee shall have the functions described in Exhibit "C" attached hereto



and made a part thereof. Specifically, the Committee shall exercise its powers pursuant to the procedures set out in Exhibit "C". The Operator will finance the first Two Thousand Five Hundred Dollars (\$2,500) of the Committee's costs annually. The remainder of the Committee's costs shall be borne by the Town and the County in proportion to their representation on the Committee, if the Committee receives prior approval of such costs by the Town or County. The Landfill Fund may provide the financing of these additional expenses. The Operator's contributions to the Committee shall increase annually by eight percent (8%) per year, effective January 1 following the execution of this agreement.

27. EXISTING AGREEMENTS.

The Town and the Operator had entered into a stipulation disposing of litigation involving the current licensed landfill. The parties hereto expressly state that this Agreement shall supersede such stipulation and order, which was previously captioned and identified as GREIDANUS ENTERPRISES, INC., Plaintiff, v. TOWN OF DARIEN, Defendant; Walworth County Case No. 86-CV-3319.

The Town and the Operator do hereby stipulate that the applicability of this Agreement as to payments that are otherwise due the Town for the calendar year 1991, under the pre-existing settlement, are as set forth in Exhibit "I" attached hereto and incorporated herein by reference.

ARTICLE V  
FINANCIAL OPERATIONS RELATED TO THE SOLID WASTE FACILITY

1. INDEMNIFICATION TO THE TOWN AND COUNTY.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall indemnify, hold harmless, support and defend the Town and the County, their respective officers, their respective employees, their respective agents and the Local Committee members appointed under sec. 144.445, Wis. Stats., and Standing Committee Members from any and all liability, loss, cost, expenses (including costs of defense, reasonable attorneys fees, Removal Action costs and Remedial Action costs), interest and damages that it or they might suffer or pay out to another as a result of any claim, demand, suit, action or right or action (in law or equity) as a result of any injury (including death) or damage to any person or property, against the Town, the County, their respective officers, their respective employees, their respective agents, the Local Committee members appointed under sec. 144.445, Wis. Stats., or the Standing Committee, brought by any party wherein such injury or damage arises in any way as a result of any anticipated or unanticipated occurrences as defined below, including any act or omission, negligent or otherwise, of the parties indemnified hereunder or that result from the actions or negligence of the Operator or its agents in connection with the Active Fill Area, with the Solid Waste Facility and with any other obligation of the operation under this Agreement. For the purposes of this Agreement, occurrences

shall be deemed to be those associated with the negotiation/arbitration process that occurred pursuant to Chapter 144, Wis. Stats., occurrences which result from the actions or negligence of the Operator or its agents in connection with the Disposal, Storage or Treatment of Solid Waste or Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility or at operations related thereto and occurrences which result from the actions or negligence of the Operator or its agents in connection with any Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility or at any operations related thereto.

Except as provided below, the above-noted provision shall include full reimbursement to the Town, to the County, to their respective officers, to their respective employees, to their respective agents, to the Local Committee and Standing Committee by the Operator of the legal fees and the legal costs of any legal defense by the Town, the County, by their respective officers, by their respective employees, by their respective agents, by the Local Committee members appointed under sec. 144.445, Wis. Stats. and Standing Committee members. Additionally, except as provided below, the Town, the County and the above-noted parties shall have the right to select for legal defense their own attorney(s) with full reimbursement for any legal fees and costs to be made to such attorney(s) by the Operator.

Notwithstanding the language above, the Operator need not indemnify the Town, the County, their respective officers, their

respective employees, their respective agents, the Local Committee members appointed under sec. 144.445, Wis. Stats., or the Standing Committee members wherein it is found by a court of competent jurisdiction that the injury or damage was the result of the sole negligence of or the result of the intentional, wanton or willful acts of the Town, the County, their respective officers, their respective employees, their respective agents, the Local Committee members appointed under sec. 144.445, Wis. Stats., or the Standing Committee members, or any combination thereof. All claims for indemnification by the Town, County or other parties listed under this section shall be asserted and resolved as follows:

- (a) In the event that any claim or demand for which the Operator would be liable to the Town, County, or other named parties (hereinafter collectively referred to as "Indemnatee") hereunder is asserted against or sought to be collected from Indemnatee by a third party, Indemnatee shall promptly notify, in writing, the Operator of such claim or demand, specifying the nature of such claim or demand and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim and demand). This written notification shall be referred to as the "Claim Notice". The Operator shall have fifteen (15) days from the time the Claim Notice is post-marked or such shorter time as



may be reasonably required under the circumstances (the "Notice Period") to notify the Indemnatee(s)

(1) whether or not the liability of the Operator to such party hereunder with respect to such claim or demand is disputed, and

(2) whether or not the Operator desires at its sole cost and expense to defend the Indemnatee against such claim or demand.

(b) In the event that the Operator notifies Indemnatee within the Notice Period of its desire to defend the Indemnatee against such claim or demand, except as hereinafter provided, the Operator shall have the right to defend by appropriate proceedings, which proceedings shall be promptly settled or prosecuted by it to a final conclusion. To the extent that a defense against any such claim or demand or any portion thereof is finally unsuccessful, it shall conclusively be deemed an indemnification obligation of the Operator. If the Indemnatee desires to participate in, but not control, any such defense or settlement it may do so at its sole cost and expense.

(c) If the Operator elects not to defend the Indemnatee against any claim or demand, whether or not giving the Indemnatee timely notice as provided above or otherwise, then the Indemnatee shall defend such

claim and shall use the procedures under paragraph (d) to challenge the Operator's decision not to defend. In the event Indemnatee prevails in his challenge of the Operator's election, then Indemnatee's costs and expenses shall be deemed an indemnification obligation of the Operator.

(d) Disputes regarding the liability of the Operator to Indemnatee under this section shall be resolved by arbitration in the manner provided in Article V, Section 3, subsection "A". While awaiting resolution of such disputes, costs incurred from any action taken by a party to protect its interests or any loss suffered due to inaction may be the subject of a claim brought before the arbitration panel handling the dispute as to liability.

(e) Notwithstanding any of the foregoing language, this agreement does not, and is not, in any way intended to waive any of the protections afforded a municipality by statute, including those established by § 893.80, Wis. Stats.

## 2. FINANCIAL ASSURANCE.

### A. Letters of Credit.

Within twenty (20) days after the execution of this Agreement, the Operator shall provide the Town and County separate irrevocable and unconditional letters of credit in the amount of Fifty Thousand Dollars (\$50,000) each to assure the Operator's compliance with all of the terms and conditions contained in this Agreement, including the indemnification and duty to defend requirements contained in Article V, Section 1. The amount of said letters of credit shall be increased to Seventy-Five Thousand Dollars (\$75,000) each on the third anniversary date that the Solid Waste is first disposed of in the Active Fill Area. The amount shall be increased to One Hundred Thousand Dollars (\$100,000) each on the sixth anniversary date after Solid Waste is first disposed of in the Active Fill Area. The Operator shall thereafter keep separate letters of credit in the amount of One Hundred Thousand Dollars (\$100,000) in full force and effect, until twenty (20) years after Final Closure.

Such letters of credit shall include assurance that the Operator complies with all of the terms and conditions of this Agreement, including, but not limited to:

- (a) The Operator, during the time period required for maintenance of such letters of credit, shall fully comply with all of the terms and conditions contained in this Agreement.

- (b) The Operator, during the time period required for maintenance of such letters of credit, shall faithfully and properly construct, repair, maintain, close and provide Long-Term Care in the Active Fill Area and the Operator shall properly conduct Disposal Operations, Storage Operations, Treatment Operations and Long-Term Care Operations at the Solid Waste Facility in accordance with the federal and state laws and in accordance with the federal and state regulations, orders, permits and licenses.
- (c) The Operator, during the time period required for maintenance of such letters of credit, shall save harmless, indemnify and defend the Town, the County, their respective officers, their employees, their respective agents, the Local Committee and its members as appointed under sec. 144.445, Wis. Stats., and Standing Committee members:
- (1) from any costs, expenses and damages incurred by the Town, by the County and by the above-noted parties through the failure of the Operator to faithfully and properly construct, operate, repair, maintain, close the Active Fill Area and to faithfully and properly provide Long-Term Care in the Active Fill Area and to properly conduct the Disposal



Operations, Storage Operations, Treatment Operations and Long-Term Care Operations at the Solid Waste Facility as required by this Agreement. Such costs, expenses and damages related to the Solid Waste Facility incurred by the Town, by the County or by the above-noted parties which may have been incurred by actions taken by the Town, by the County or by the above-noted parties to correct improper conditions in the Active Fill Area or at any other location at the Solid Waste Facility. Such costs, expenses and damages incurred by the Town or by the County may specifically include but are not limited to any remedial action costs and expenses or any removal costs and expenses incurred. In addition, such costs, expenses and damages may include other costs or expenses incurred by action taken by the Town or by the County to correct any violation of the terms of this Agreement. Finally, such costs, expenses and damages may include any labor costs and any equipment costs incurred by the Town or by the County, whenever the Town or the County or both determine that it is appropriate and necessary for any one or both of them to

correct any improper condition in the Active Fill Area or at any other location at the Solid Waste Facility wherein the improper conditions are in violation of any term or condition of this Agreement or,

- (2) from any expenses and damages incurred by the Town, by the County or by the above-noted parties related to the Solid Waste Facility and as a result of any violation by the Operator of:

- (i) federal or state laws,
- (ii) federal or state regulations,
- (iii) federal or state permits, or
- (iv) this Agreement; or,

- (3) from any costs, expenses and damages incurred by the Town, by the County or by their above-noted parties related to the Solid Waste Facility and as a result of the negligent acts, wanton or willful acts or intentional tortious acts of the Operator or its agents and wherein the Operator shall, pursuant to Article V, Section 1, save harmless, indemnify and defend the Town, the County, their respective officers, their respective employees, their respective agents, the Local Committee and its members appointed under sec.

144.445, Wis. Stats., and Standing Committee members, from any claim against the above-noted parties for costs, expenses and damages incurred by a third party due to the negligent acts, wanton or willful acts or intentional acts or omissions of the Operator or its agents toward any third party wherein such acts are related to the Solid Waste Facility, including acts related in any way to the Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations in the Active Fill Area or at any other location at the Solid Waste Facility, or that are related in any way to the Disposal, Storage or Treatment of Solid Waste or Hazardous Waste in the Active Fill Area or at any other location at the Solid Waste Facility. Notwithstanding the foregoing, costs, expenses and damages caused by the sole negligence or the willful, wanton, or intentional acts of the Town, County or their officers, employees or agents shall not constitute claims against the letters of credit.

- (d) The Operator, during the time period required for maintenance of such letters of credit, shall

properly and in a timely manner reimburse the Town or the County or both for any reasonable legal costs and legal fees incurred by the Town or by the County or both in enforcing this Agreement against the Operator.

B. Enforcement of Security Requirements.

Failure by the Operator to provide and to maintain the letters of credit shall subject the Operator to immediate enforcement action, under which the Town or the County or both shall have the right to seek and obtain a court order to compel compliance subject to the provisions herein together with costs and attorneys fees.

3. COMPENSATION FOR COSTS, EXPENSES AND DAMAGES TO THE TOWN AND COUNTY.

A. General Reimbursement of Costs, Expenses and Damages.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall fully reimburse the Town, the County, the appropriate municipal fire service units and the appropriate municipal ambulance service units in the Town and County within twenty (20) days after the Town, the County the appropriate municipal fire service units or the appropriate municipal ambulance service units submit to the Operator a written invoice documenting for the Operator the total dollar amount due from the Operator for the reasonable and necessary costs, for the reasonable and necessary expenses and for the actual damages incurred by the Town, the County, the appropriate municipal fire service units or the appropriate municipal ambulance service units



in their responding to certain occurrences individually or jointly and then acting individually or jointly upon certain occurrences, namely:

- (a) Fires, explosions, accidents or any other emergencies occurring at the Active Fill Area or at any other location at the Solid Waste Facility, or any fires, explosions, accidents or any other emergencies occurring at any other location in the Town or County which occurred as a result of the transportation to and from the Solid Waste Facility of Solid Waste or other Waste by the Operator or by its agents, which occurred as a result of the Disposal, Storage or Treatment of Solid Waste or other Waste in the Active Fill Area or at any other location at the Solid Waste Facility, or which occurred as a direct result of the Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Active Fill Area or at any other location at the Solid Waste Facility.
- (b) Solid Waste or Hazardous Waste discharges occurring in the Active Fill Area or at any other location at the Solid Waste Facility, or Solid Waste or Hazardous Waste Discharges occurring at any other locations in the Town and County, which occurred as a direct result of the transportation to and from

the Solid Waste Facility of Solid Waste or other Waste by the Operator or by its agents, which occurred as a result of the Disposal, Storage or Treatment of Solid Waste or other Waste in the Active Fill Area or at any other location at the Solid Waste Facility or which occurred as a result of any Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility. These costs and expenses incurred by the above-noted municipalities and by the appropriate municipal service units may specifically include any Remedial Action costs and any Removal Action costs.

- (c) Any other occurrences at the Solid Waste Facility which occurred as a direct result of Disposal, Storage or Treatment of Solid Waste or other Waste in the Active Fill Area or at any other location at the Solid Waste Facility or which occurred as a direct result of Disposal Operations, Storage Operations, Treatment Operations or Long-Term Care Operations at the Solid Waste Facility wherein the Town, the County, the appropriate municipal fire service units or the appropriate municipal ambulance service units determined jointly or individually that it was appropriate and necessary for the individual municipality and/or the

appropriate municipal service unit to incur reasonable and necessary costs and reasonable and necessary expenses in providing specific services and specific benefits in order:

- (1) to prevent a public nuisance in the Town or County,
- (2) to protect the public health, safety and welfare of persons in the Town or County, or
- (3) to protect the natural resources in the Town or County, and, in addition, that the above-noted individual municipalities and/or the appropriate municipal service units then determined it was appropriate and necessary that the Operator reimburse the municipalities and/or the appropriate municipal service units for providing the specific services and for providing the specific benefits. These services and benefits provided by the appropriate municipalities and/or by the appropriate municipal service units to the Operator may include any Remedial Action costs or any Removal Action taken by such municipalities or municipal service units.

The Town, the County, the appropriate municipal fire service units or the appropriate municipal ambulance service units shall be entitled under this subsection for reimbursement or

payment from the Operator for their specific costs, their specific expenses and their specific damages incurred in their providing specific services and specific benefits if:

- (a) the total amount of the costs, expenses and damages that were incurred by the individual municipality or by the appropriate municipal service unit when submitted by written invoice by the individual municipality or by the appropriate municipal service unit to the Operator was more than Twenty and No/100 (\$20.00) Dollars in amount,
- (b) the specific costs, expenses and damages submitted for payment to the Operator were incurred by the individual municipality or by the appropriate municipal service unit and such costs, expenses and damages were, at the time the specific services and the specific benefits were provided, the type and amount of costs, expenses and damages that would be normally assessed directly to or normally charged directly to any party or parties by such municipality or by such appropriate municipal service unit for the specific services or specific benefits provided, and
- (c) such public services are over and above those normally provided to residents of the Town or County.



Notwithstanding the foregoing, the Operator retains the right to retain the services of private fire service units or private ambulance service units, as it deems appropriate, to respond to any of the above-noted occurrences.

Any controversy or claim by the Town or County or the Operator arising out of or relating to the amount due the Town or County from the Operator or paid from the Operator to the Town or County pursuant to this subsection shall be settled by arbitration in accordance with the rules of the American Arbitration Association and in accordance with Chapter 788, Wis. Stats., or its successor chapter. Judgment upon the award rendered by the arbitrators may be entered in any court in the state of Wisconsin having competent jurisdiction. The loser in arbitration, shall pay any reasonable attorneys fees and legal costs of the other party or parties up to, but not to exceed, a total of Two Thousand Dollars (\$2,000).

B. Reimbursement for Negotiation Expenses.

The Operator shall, no later than fifteen (15) days after the effective date of this contract, pay expenses of the Town and County up to an additional Fifty Thousand Dollars (\$50,000) for their actual attorney's fees, costs, and expenses, including a Thirty-Five Dollar (\$35.00) per diem fee of the members of the Negotiating Committee, as well as the Negotiating Committee's expenses, incurred as a result of the County and Town participating in the negotiating process as established in Chapter 144, Wis. Stats. up to the date of local committee approval of this

agreement. The above-noted amounts for such Negotiating Committee costs and expenses shall be paid by the Operator within fifteen (15) days of the execution of this Agreement by the Negotiating Committee, Town and Operator.

C. Reimbursement for Administrative Costs and Expenses.

The Operator, during the Initial Term and extending until forty (40) years after Final Closure, shall annually reimburse the Town and County by January 25th, commencing with the first annual reimbursement payment due on or before January 25, 1992 for the year 1991, for the reasonable and necessary clerical costs, engineering, surveying, and professional fees and other expenses which the Town, County, and Standing Committee has incurred during the prior year as a direct result of the Solid Waste Facility, including reasonable and necessary costs and reasonable and necessary expenses associated with any provision of this contract. These parties, by January 10th of each year, commencing first on or before January 10, 1992, shall submit to the Operator a detailed written invoice of its clerical costs and expenses and its administrative costs and expenses from the prior year wherein such costs and expenses submitted to the Operator were incurred as a direct result of the Solid Waste Facility, including any reasonable and necessary costs and any reasonable and necessary expenses associated with any provisions of this contract. To require the annual reimbursement payment in any one year from the Operator, the invoiced amount submitted must exceed One Hundred and No/100 (\$100.00) Dollars in amount. The parties shall, in their written

invoices submitted to the Operator, include any copies available to it of the following:

- (a) any receipts for proof of payment of any costs and expenses incurred as a direct result of the Solid Waste Facility in its purchase or lease of supplies and materials or its purchase or retention of services, and
- (b) copies of any hourly billing statements or other billing statements received from employees, agents, independent contractors or professionals employed or retained as a direct result of the Solid Waste Facility or this agreement.

The parties shall submit for payment to the Operator by its invoices only those reasonable and necessary costs and reasonable and necessary expenses incurred by the parties directly related to the Solid Waste Facility, including costs and expenses directly related to this contract. Such costs and expenses may be costs and expenses incurred by the parties related to or associated with its providing or purchasing necessary clerical and administrative services. Clerical and administrative service costs and expenses may include, but are not limited to, municipal secretarial and municipal supervisory wage and salary costs, public official per diem costs and any costs and fees for retained professional and technical personnel. Clerical and administrative material and supply costs and expenses may include, but are not limited to, long distance telephone costs, copying costs, Solid



Waste educational material purchase costs, file cabinet purchase costs, travel and lodging costs, stationery purchase costs, stamp purchase costs, public meeting publication costs and Solid Waste seminar attendance costs.

The maximum amount required to be reimbursed by the Operator for any one year for the above-noted clerical and administrative costs and expenses shall be Five Thousand and No/100 (\$5,000.00) Dollars per year. Such clerical and administrative costs and expense to be reimbursed and to be paid by the Operator are to be reasonable and necessary costs and reasonable and necessary expenses that are costs and expenses that are over and above other specific costs and other specific expenses to be reimbursed and paid by the Operator pursuant to other provisions of this contract.

Any controversy or claim arising out of or relating to the amount due or the amount paid by the Operator for the above-noted costs and expenses reimbursement shall be settled by arbitration in accordance with the rules of the American Arbitration Association and in accordance with Chapter 788, Wis. Stats., or its successor chapter. Judgment upon the award rendered by the arbitrators may be entered in any court in the state of Wisconsin having competent jurisdiction. The party losing in arbitration will pay the reasonable attorneys fees and legal costs of the prevailing party up to but not to exceed Two Thousand Dollars (\$2,000.00).



ARTICLE VI  
COMPENSATION TO THE TOWN AND COUNTY

1. DIRECT PAYMENT.

In consideration for the Town and County serving as host municipalities, and in consideration of such municipalities waiving their Local Approvals and Pre-Existing Local Approvals, as set forth in this Agreement, and accepting the adverse consequences and numerous responsibilities associated with the location of a landfill in their municipalities, and in consideration of all other matters as set forth in this Agreement, the Operator shall pay to the Town, a direct payment of One and 35/100 Dollars (\$1.35) per ton of all waste deposited in the Active Fill Area. In addition, Waste Management will pay the Town the sum of One and 35/100 Dollars (\$1.35) per ton for waste received at the currently licensed facility known as Mallard Ridge Landfill since August 23, 1991 and shall be paid to the Town within ten (10) days after the execution of this Agreement by the Negotiating Committee, Town and Operator.

The base rate of One and 35/100 Dollars (\$1.35) per ton in 1991 shall be increased by eight (8%) percent beginning January 1, 1992 and an additional eight (8%) percent every January 1 thereafter that waste is received at the existing Mallard Ridge

Landfill or the Active Fill Area. No fee shall be paid for Town Waste received free of charge.

Subject to the provisions of Article IV, paragraph 25(E), beginning January 1, 1993 or such earlier date as the Active Fill Area begins to accept waste for disposal, the Operator shall pay a premium for out-of-state waste as set forth under Section 2 of Article VI.

The Operator shall compute the amount of the direct payment based upon calendar quarters. Direct payments shall be made within ten (10) days of the expiration of each quarter for the waste deposited during such quarter. For example, the first payment in the calendar year 1992 shall be due on or before April 10, 1992.

The Operator shall submit detailed statements pertaining to the waste received during such calendar quarter, breaking down such waste as to the types of waste, the source of such waste by county and state, the gate yards received based upon the Operator's daily records, the estimated volume filled during such quarter, and tonnage per type of waste per quarter.

Any payment that is received late shall accrue interest at the rate of one and one-half (1-1/2%) percent per month. Such late payment interest charges shall be calculated on a daily basis and shall be compounded on a monthly basis until fully paid.

The Operator shall provide to the Town, County and Standing Committee all documents submitted to the Department pertaining to the recording and documentation of the waste received. In addition, the Town, County or Standing Committee may inspect the

originals of such documentation or the daily records upon which such summaries are based upon reasonable prior notice.

If, at any time, the Town or County so desires, either may retain an independent consulting firm to perform computations in order to verify the Operator's reported tonnage to the Town and County. Such consulting firm may use field or aerial surveys to verify such tonnage. For the purpose of converting cubic yards of air space into tons, the parties stipulate that one cubic yard of air space shall equal one thousand two hundred ten (1,210) pounds of waste, less a daily and intermediate cover discount of one (1) to twelve (12) (i.e., one (1) part of cover materials to twelve (12) parts of waste). The party (County or Town) retaining the independent consulting firm shall pay all costs unless such independent consulting firm's computations reveal that the Operator's reported tonnage to the Town and County has been understated by five percent (5%) or greater. If so understated, the costs of such computations shall be borne by the Operator and the Operator shall pay the costs of such independent consulting firm within thirty (30) days after presentation of such bill and the report of such error. There shall be no reduction of air space for "daily cover" or any other matter pertaining to discounting of the pounds per cubic yard of air space assumption, except as provided for in this paragraph.

The independent consulting firm's computations shall be determinative of the amounts of waste deposited during the period studied. If the Operator has understated the amount deposited, the



difference shall be paid to the Town within ten (10) days of receipt of the consultant's results at the rate applicable at the time such payments are received by the Town. If the Operator has overstated the amount deposited, the Operator shall receive a credit toward its future Direct and Premium payments provided for in Sections 1 and 2 of Article VI. The ratio of out-of-state waste during the twelve (12) months preceding that survey shall be deemed to be the proportion of affected wastes subject to the out-of-state waste premium for purposes of paying understated amounts or for purposes of future credits if overpayments have been made.

Effective the first year that waste is received at the Active Fill Area, a minimum annual payment shall be paid directly into the general fund of the Town in the amount of One Hundred Thousand and no/100 (\$100,000.00) Dollars for each year between the initial Disposal of Solid Waste and the Final Closure of the Active Fill Area. Such amount shall be deemed a credit against the direct payments stated above and may be carried forward to the next year to the extent the direct payments in said year do not exceed One Hundred Thousand Dollars (\$100,000). Such payments shall be made to the Town on or before January 15 of each year solid waste is disposed at the Active Fill Area, beginning with the first such date following the initial receipt of waste. Until such time, the Town shall be paid the annual fee from the Landfill Fund as provided for in Exhibit "D", paragraph 10. The amount to be paid to the Town shall increase at the rate of eight percent (8%) per year, such increase to begin with the January 15, 1993 payment.



The parties agree that the direct payments to be paid to the Town and County, including the out-of-state waste premium and any other payments, other than the One Hundred Thousand (\$100,000.00) Dollar annual minimum payment, shall be set aside in a fund to be used as set forth in Exhibit "D".

2. PREMIUM FOR OUT-OF-STATE WASTE.

The Operator shall pay to the Town and County the following premium for any waste that is not generated within the state of Wisconsin ("out-of-state"). Any out-of-state waste which is received for disposal in the Active Fill Area shall be subject to a premium equal to Sixty-Five Cents (\$.65) per ton of waste for 1991. This rate shall increase at the rate of eight percent (8%) per year, effective January 1, 1992, and every year thereafter, as set forth in Section 1. Further the Premium shall apply to all out-of-state waste received at the existing Mallard Ridge Landfill after January 1, 1993.

In the event this premium is held, by a court of competent jurisdiction, to be unlawful or otherwise unenforceable upon the Operator, the parties agree that the premium shall be deemed to be an additional direct payment which the Operator shall continue to pay despite such a holding. In the event of this holding, this additional direct payment shall be calculated in the same manner that the premium had been calculated prior to this holding.

3. RESIDENTIAL WASTE.

The Operator shall, during the Initial Term of this contract, make the transfer station or collection bins located at the Solid

Waste Facility available to the residents of the Town for the purpose of Disposal of their residential garbage, rubbish and refuse every day the landfill is open during its hours of operation at no charge. The Operator shall also provide access for the Town residents who own or operate farms in the Town for dump trucks and similar farm vehicles to enter the Solid Waste Facility to Dispose of their residential garbage, rubbish and refuse. Such access would also be limited to the hours set forth above in this article. Items not permitted by state law for disposal at solid waste landfill shall be excluded from this clause.

In the event that the Town chooses to go to a Town-wide waste hauler, the Operator shall agree to work with such waste hauler to provide for the orderly, free Disposal at the Active Fill Area of the residential garbage, rubbish, and refuse generated by the Town residents. If said hauler brings Town residential waste to the Active Fill Area; then, notwithstanding the foregoing, the Operator shall pay to the Town the lesser of:

- (a) The amount invoiced and actually paid by the Town's waste hauler for waste disposal at the Active Fill Area, or
- (b) A sum equalling the prevailing disposal rate which the Operator is billing the Town's waste hauler times the number of residents times an assumed two and one-half ( $2\frac{1}{2}$ ) pounds of waste per person per day for the month. The Town shall have determined the number of residents based upon 1990 census data increased by the number of new residential units built in the Town, assuming three

and one-half (3½) persons per residential unit. Such an amount shall be rebated to the Town on or before the tenth (10th) day following each and every month that the Town is serviced by a Town-wide waste hauler.

4. TOWN RECYCLING. The Operator shall provide recycling services free of charge to the residents of the Town which shall meet all the requirements imposed by State Statutes, including any amendments or further requirements that are added during the term of this agreement. The Operator shall quarterly certify the amount of recyclables being received at the site to satisfy state requirements or other information needed by the Town or County solid waste manager. The Operator shall refuse to accept Town resident's waste for Disposal in the Active Fill Area if that resident has failed to separate recyclables from his or her waste. The Town shall define and provide regulations pertaining to recyclables dropped off at the Active Fill Area by Town residents.

ARTICLE VII  
MISCELLANEOUS PROVISIONS

1. Expansion. No further expansion of the Active Fill Area shall occur except pursuant to the procedures set forth in Article IV, section 25. subsection D.

2. Clay Extraction. The extraction of clay in the areas permitted under this agreement shall be completed in phases and shall be reforested as set forth in Exhibit "G" attached hereto and as provided for in paragraph 22 of Section IV.



ARTICLE VIII  
GENERAL PROVISIONS

1. NOTICE TO PARTIES.

Under this Agreement, any notices required by the terms and conditions of this Agreement are, at minimum, to contain the address and names of the parties as noted below, are to be sent by first class mail to such parties and are to be considered by each party as written notice when received, except as otherwise specifically provided herein. It is further understood that the Town, the County, the Operator, the Local Committee, and the Standing Committee shall each be responsible to provide to the other parties any appropriate change of address or any appropriate change of name by providing the other parties with a written "Notice of Address Change" or "Notice of Name Change". Such notices shall be sent by certified mail to the addresses noted below. The current names and addresses are:

A. Waste Management of Wisconsin, Inc.  
W124 N8925 Boundary Road  
Menomonee Falls, Wisconsin 53051

or

Mallard Ridge Recycling and Disposal Facility  
Waste Management of Wisconsin, Inc.  
Route 2, Box 117  
Delavan, Wisconsin 53115

B. Town of Darien  
Town Hall,  
Route 1, Foundry Road  
Darien, Wisconsin 53114

C. Walworth County, County Clerk  
Walworth County Courthouse  
P. O. Box 1001  
Elkhorn, Wisconsin 53121

D. County Solid Waste Management Board  
Walworth County Annex - Box 1007  
Highway NN  
Elkhorn, Wisconsin 53121-7001

2. HEADINGS.

The titles to the paragraphs of this Agreement are for informational purposes only, except where such titles may be necessary for an understanding of the content of the paragraph.

3. GOVERNING LAW.

This Agreement and the provisions contained therein will be construed, enforced and governed, in all respects, in accordance with the laws and statutes of the State of Wisconsin.

4. WAIVER.

Any waiver by any party to a breach of any term or condition of this Agreement shall not be considered a waiver of any subsequent breach by a party of the same term or any other term or condition of this Agreement.

5. COMPLETE AGREEMENT.

This Agreement supersedes all prior contracts or agreements, whether oral or written that were or could have been negotiated pursuant to sec. 144.445, Wis. Stats., between the Town, the County, the Operator, and the Local Committee. In addition, this Agreement, unless specifically stated to the contrary, does not address nor does it determine for the Town, the County, the Operator or the Local Committee the following:

- (a) The applicability or non-applicability and the enforceability or non-enforceability of any non-Pre-Existing Local Approvals of the Town or of

the County related to any uses of the Solid Waste Facility or related to any activities or operations related to or associated with the Solid Waste Facility by any persons not directly subject to this contract.

(b) The applicability or non-applicability and enforceability or non-enforceability of any non-Pre-Existing Local Approvals of the Town or of the County related to any uses of the land wherein the Solid Waste Facility is located or related to any activities or operations at any time related to or associated with the Solid Waste Facility by the Operator, or by any other persons wherein such uses of the land where the Solid Waste Facility is located and wherein such activities and operations related to the Solid Waste Facility are not related in any way to or associated in any way with any Solid Waste Disposal uses of the Solid Waste Facility, with any Solid Waste Disposal activities or with Solid Waste Disposal operations at the Solid Waste Facility or with any Solid Waste Long-Term Care Operations at the Solid Waste Facility.

(c) The applicability or non-applicability and the enforceability or non-enforceability of any non-Pre-Existing Local Approvals of the Town or of

the County for any activities or operations by the Operator, or by any other parties that are beyond the Active Fill Area and beyond the Solid Waste Facility and that are activities or operations occurring at operations related thereto or at any other locations in the Town and County and wherein such activities or operations may or may not be related to or associated with any Solid Waste Disposal Operations, with any Solid Waste Storage Operations, with any Solid Waste Treatment Operations or any Solid Waste Long-Term Care Operations.

6. AMENDMENT.

This Agreement may be amended only by a mutually-stipulated written agreement between the Town, the County and the Operator.

7. BINDING EFFECT.

This Agreement will bind the Town, the County, the Operator, the Local Committee, their respective legal heirs, their respective legal representatives, their respective legal successors and their respective legal assigns.

DATED: 12-30-91

MALLARD RIDGE LANDFILL  
Negotiating Committee,

BY: Maxine Hough  
MAXINE HOUGH, Chairman and  
authorized signatory by vote of  
and on behalf of the Mallard  
Landfill Negotiating  
Committee

DATED: 12-30-91

WASTE MANAGEMENT OF WISCONSIN  
INC.,

BY: Richard T. Koff  
Vice President



TOWN OF DARIEN

Approved this 30<sup>th</sup> day of December, 1991.

BY: James Bilskey  
JAMES BILSKEY, Chairman

ATTEST: Barbara S Wheelock  
BARBARA S. WHEELOCK, Clerk

(A certified copy of the approving resolution shall be attached and appended to this agreement and incorporated by reference.

Exhibit "A"

ACTIVE FILL AREA

Legal description:

The Southwest 1/4 of the Southeast 1/4 of Section 4, and the South 400' of the Northwest 1/4 of the Southeast 1/4 of Section 4, T 2 N, R 15 E. Containing 52 acres more or less.

Exhibit "B"

MALLARD RIDGE-TOTAL FACILITY LEGAL DESCRIPTION  
WALWORTH COUNTY, WISCONSIN

I. OLD SITE, EXISTING ACTIVE AREA, PROPOSED EXPANSION AREA,  
COMPOST AREA, OFFICE AND SHOP BUILDING, AND TIRE SHREDDING  
AREA.

A parcel of land located in Section 4 and Section 9, T2N, R15E, Walworth County, Wisconsin. The Northeast 1/4 of the Northeast 1/4 of said Section 9; the Southwest 1/4 of the Southeast 1/4 of said Section 4; the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 4; the South 400.00 feet of the Northwest 1/4 of the Southeast 1/4 of said Section 4; the South 1/2 of the Southwest 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 4; the Northwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of said Section 9.

II. 66.00 FOOT WIDE ACCESS ROAD.

A 66.00 foot wide access road across part of the Northeast 1/4 of Section 9 and the Southwest 1/4 of Section 10, T2N, R15E, the center line is described as follows: Commencing at the East 1/4 corner of Section 9; thence N33° 44' 57" W 1205.51 feet to the point of beginning of said center line; thence S0° 19' 42" W 655.16 feet; thence S18° 47' 11" E 494.29 feet; thence S22° 46' 31" E 501.29 feet; thence S39° 00' 16" E 195.08 feet; thence S12° 56' 40" E 196.34 feet to a point; said point being 66.00 feet North of center line of S.T.H. "11"; thence S84° 05' 03" E along a line 33.00 feet North of and parallel to the North line of S.T.H. "11" 264.11 feet to the point of ending.

III. OLD OFFICE AND PARKING AREA.

Commencing at the East 1/4 corner of Section 9, T2N, R15E; thence N33° 44' 57" W 1205.51 feet; thence S0° 19' 42" W 655.16 feet; thence S18° 47' 11" E 494.29 feet; thence S22° 46' 31" E 501.29 feet; thence S39° 00' 16" E 195.08 feet; thence S12° 56' 40" E 196.34 feet; thence S84° 05' 03" E 264.11 feet to the point of beginning; thence N10° 46' 01" E 170.29 feet; thence N84° 58' 09" E 305.35 feet; thence S9° 17' 38" W 261.12 feet; thence N84° 05' 03" W along a line 33.00 feet North of and parallel to the North line of S.T.H. "11" 301.61 feet; thence N10° 46' 01" E 33.12 feet to the point of beginning.

FORMER WHEELOCK PARCEL DESCRIPTION  
CLAY BORROW REZONE

Land located in the south one-half of Section 4, Town 2 North. Range 15 East, Walworth County, Wisconsin, more particularly described as follows: Beginning at an iron pipe located at the Northwest corner of the West 1/2 of the Southeast 1/4 of said Section 4 as shown by the East-West 1/4 line of said section according to the existing fence lines at the East and West 1/4 corners of said section; thence East along the North line of the West 1/2 of the Southeast 1/4 of said Section 4 as shown by existing fence lines, 1073.77 feet to an iron pipe; thence S 30° 4' 54" E 323.20 feet to an iron pipe; thence S 0° 32' 58" W 280.58 feet to an iron pipe; thence S 2° 40' 20" W 211.48 feet to an iron pipe; thence N 87° 05' 18" W 266.52 feet to an iron pipe; thence S 2° 54' 42" W 271.95 feet to an iron pipe; thence S 31° 55' 30" W 238.46 feet to an iron pipe; thence N 89° 51' 18" W 771.54 feet to an iron pipe located on the west line of said Southeast 1/4 as fenced; thence S 2° 39' 33" W 691.93 feet along the West line of said Southeast 1/4 as fenced to an iron pipe located at the Northeast corner of the South 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 4 according to existing fence lines; thence N 89° 51' 07" W 441.37 feet along the North line of the South 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 4 as fenced to an iron pipe; thence N 2° 39' 34" E 1992.77 feet to the North line of East 1/2 of the Southwest 1/4 of said Section 4 as shown by existing fence lines; thence East 441.48 feet along the North line of the East 1/2 of the Southwest 1/4 of said Section 4 as shown by existing fence lines to the point of beginning.

NOTES:

Excepting therefrom all that land which lies in the South 400' of the Northwest 1/4 of the Southeast 1/4 of Section 4, T 2 N, R 15 E. Also excepting therefrom all that land which is currently zoned C-2, containing 34 acres more or less.



DESCRIPTION FOR FORMER POUNDER PROPERTY  
CLAY REZONE

A parcel of land located in the North 1/2 of the Southwest 1/4 and in the Southeast 1/4 of the Northwest 1/4 of Section 3, T 2 N, R 15 E, Walworth County, Wisconsin. Beginning at the West 1/4 corner of Section 3, T 2 N, R 15 E; thence N 87 42' 13" E along the north line of the Northeast 1/4 of the Southwest 1/4 of said Section 3, 1319.78 feet to the Southwest corner of the Southeast 1/4 of the Northwest 1/4 of Section 3, as fenced; thence N 00 30' 00" E, along the west line of said Southeast 1/4 of the Northwest 1/4; 1318.98 feet; to the Northwest corner of said Southeast 1/4 of the Northwest 1/4; thence N 87 18' 07" E, along the north line of said Southeast 1/4 of the Northwest 1/4, 438.70 feet to the centerline of County Trunk Highway "M"; thence S 43 25' 53" E along said centerline 656.14 feet; thence South, 2144.47 feet to a point on the south line of the North 1/2 of the Southwest 1/4 of said Section 3; thence S 87 34' 30" W along said south line 2230.87 feet to the west line of said Section 3 thence N 00 24' 16" E along said west line 1322.92 feet to the place of beginning. Excepting therefrom all that land presently zoned C-2.

DESCRIPTION FOR FORMER LONG PROPERTY  
CLAY REZONE

A parcel of land located in the West 1/2 of the Northeast 1/4 and in the Northwest 1/4 of the Southeast 1/4 of Section 9, T 2 N, R 15 E, Walworth County, Wisconsin, described as follows: Commencing at the North 1/4 corner of said Section 9, thence N 89 16' 05", 2.50'; thence South 8.68' to an iron pipe at the intersection of the old fence line and the place of beginning; thence N 89 13' 43" E along the old fence line, 698.20' to an iron pipe; thence South 2101.90'; thence N 63 45' W, 319.76'; thence N 16 51' 54" E, 50.00'; thence N 6 29' E, 52.45'; thence N 7 48' W, 254.33; thence N 13 25' W, 181.33'; thence N 15 43' E, 409.77; thence N 4 49' W, 111.04'; thence N 31 31' W, 125.18'; thence S 78 50' W, 399.19'; thence North 887.87' to the place of beginning;

Exhibit "C"

STANDING COMMITTEE

1. Purpose. The Town of Darien (hereinafter referred to as the "Town"), the County of Walworth (hereinafter referred to as the "County") and Waste Management of Wisconsin, Inc. (hereinafter referred to as the "Operator"), agree to establish and participate in a committee to monitor the construction and operation of the Solid Waste Facility.

2. Membership. Membership on the committee shall consist of three (3) Town residents appointed by the Town Board, one (1) representative of the Operator and the County Solid Waste manager or his designee. The committee shall elect, from amongst its members, an individual to function in the capacity of chairperson. For any action taken by the committee, unless otherwise expressly provided, a majority vote of the committee is required.

3. Term. All members appointed by the Town shall serve for staggered three (3) year terms. The initial terms of the three representatives shall be one, two, and three years, respectively, so that thereafter such terms are staggered.

4. Replacement and Removal. A committee member appointed by the Town Board may voluntarily resign at any time, and any Committee Member appointed by the Town Board shall automatically be removed from the committee effective from the date that member no longer resides in the Town. Upon the occurrence of either, the Town shall promptly appoint a replacement.

Any Committee Member may be removed by the committee for good cause and upon a four-fifths (4/5) vote of the committee.

5. Quorum. Three (3) members shall constitute a quorum, provided that voting shall be governed by the following rules:

On all votes, the Operator shall have one (1) vote, the County shall have one (1) vote and the Town shall have three (3) votes, regardless of the number of members attending any meeting. The three (3) votes of the Town shall be apportioned between the Town's membership present at any meeting.

6. Documents. The Operator shall provide a copy of all technical reports and monitoring data supplied to the State of Wisconsin/Department of Natural Resources by the Operator pertaining to the Solid Waste Facility, including the Plan of Operation, any proposed amendments to the feasibility study or any proposed changes to any special conditions imposed by the State of Wisconsin/Department of Natural Resources to the Committee free of charge.

7. Meetings. The committee may establish a schedule for meetings for the purposes of review, explanation and discussion of said technical data and the status of the Solid Waste Facility construction, operation and closure. Special meetings of the committee may be called by any member of the committee upon five (5) days written notice for the purpose of addressing any issue of concern involving the Solid Waste Facility construction, operation or closure. Upon the occurrence of an event deemed by any Committee Member to constitute an Emergency condition, a special



meeting may be called with less than five (5) days notice, provided each Committee Member is personally notified. The public may attend any committee meeting. Any written notice called for in this agreement shall be deemed effectively provided when either personally delivered or sent by mail to all members at the addresses listed by them with the committee.

8. Committee Responsibility. Individual Committee Members with proper identification shall have the right to conduct on-site inspections of the Solid Waste Facility. Said inspections shall be conducted during operating hours, but only after giving notice to the Operator's employee in charge at the Solid Waste Facility, if immediately available. If such individual is not immediately available, then notice to any of the Operator's employees on the site shall constitute notice under this provision.

9. Violations. If, in the judgment of the majority of the Committee Members, the Solid Waste Facility is not being constructed or operated in compliance with the Operator's approved Plan of Operation, or with any applicable State statute or regulation, or any other provision of law, whether it be in law or equity, the committee may serve written notice of such perceived noncompliance upon, and may make recommendations to, the Operator. Similarly, if any aspect of the construction, operation or closure of the Solid Waste Facility causes or is likely to cause, in the judgment of the majority of the committee, a problem due to noise, dust, debris, odor, maintenance of access road, litter, traffic flow, traffic patterns or inadequate screening or fencing or any

other problem, the committee may serve upon the Operator written notice of the committee's concern and make recommendations to remedy or address such concern.

Nothing herein shall be construed to limit the right or duty of the Town or County officials to make such on-site inspections as deemed necessary under their duties to protect the public health and safety and to take action pursuant to law. Similarly, nothing herein shall be construed to limit any legal or equitable right of any neighboring property owner with respect to individual legal rights pursuant to law. Furthermore, the existence of the Standing Committee shall not constitute a waiver of any County, Town, or local property owners' public duties, rights or privileges pursuant to law.

10. Enforcement. The Town and Operator hereby stipulate that the committee shall have legal standing in its own name to enforce any provision of law or any provision of the negotiated settlement if the Operator fails to remedy the concern of the Standing Committee as hereinbefore stated. Upon receipt of any notice of non-compliance or notice of an issue of concern to the committee, the Operator shall immediately investigate any allegation of non-compliance or issue of concern made by the committee and shall, if possible, take action as is necessary to alleviate and/or correct the situation within twenty-four (24) hours. The Operator shall deliver a written report concerning the investigation and any resulting Remedial Action to the committee within seventy-two (72) hours of receipt of the original notice. The Operator may petition

the committee for an extension of the above time limits and, upon showing sufficient cause, the committee shall so extend the limits. In the event the Operator does not correct the condition to the satisfaction of a majority of the committee within the time frames hereinbefore stated, the committee may pursue such remedies as are available at law or in equity as if it had full standing at law to bring such action.

Exhibit "D"

MALLARD RIDGE LANDFILL FUND

WHEREAS, the Town desires to place funds received by the Operator (direct payments) into a Landfill Fund to ensure that monies are available to deal with local concerns and protect against environmental perils presented by the proposed Mallard Ridge Landfill; and

WHEREAS, the Town desires that the Mallard Ridge Landfill Fund be controlled, administered and used by the Town and County, and Town and County alone, the Operator expressly taking no position in the specific use of such funds and desiring no involvement in the Mallard Ridge Landfill Fund; and

WHEREAS, the Town desires to bind all of their successors and assigns in order to create a fund which will provide for long-term environmental and other local concerns of the site;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. That all payments, whether direct payments or other compensation provided for in the Negotiated Agreement payable to the Town and/or County, shall be set aside and placed in a separate, interest-bearing account or fund, hereinafter referred to as the "Mallard Ridge Landfill Fund", or "Landfill Fund". This section expressly excludes the <sup>annual</sup> ~~direct~~ payment which shall be made every year to the Town Board of the Town of Darien.

2. That all sums placed into the Landfill Fund shall be used solely for expenses reasonably related to the Town's and County's



involvement with the landfill site, or related concerns of the Town or County of Walworth, including but not limited to:

- A. Administering the Landfill Fund;
- B. Procuring insurance to protect the Town or County and residents from liability relating to the landfill;
- C. Monitoring or providing for the monitoring of existing or potential environmental pollution or contamination;
- D. Preventing, controlling or minimizing the impact of any peril threatened by, caused by or related to the landfill;
- E. Resource recovery or recycling programs within the Town;
- F. Additional screening or berming not otherwise provided for in this agreement;
- G. Litter or rodent control;
- H. Standing Committee expenses; and,
- I. Compensation for local impacts of the landfill.

3. That the Operator shall take no position and shall have no involvement with the Town's use of the Landfill Fund, expressly waiving any standing to contest the same.

4. That the Town Board of the Town of Darien shall authorize disbursements and payments from the Landfill Fund, reserving the right to assign for review and recommendation such payments to either the Standing Committee or similar advisory body.

5. In the event of any payment made from the Landfill Fund, the Town shall be subrogated to all of the payee's rights of recovery, if such payee is a person or corporate entity suffering loss due to landfill-related causes, to the extent of the payment so made. Such subrogation rights shall allow the Town to replenish the Landfill Fund for any sums so expended. All recipients of any landfill funds shall be notified of this section and may be required to sign a written acknowledgement of the same prior to receiving such benefits.

6. In addition to the use of funds provided under paragraph 2, the Town Board shall have authority to use interest earned from the Landfill Fund for any purpose allowed by law after the principal amount of this fund has reached One Million Dollars (\$1,000,000).

7. The Town Board shall determine the duration of the Landfill Fund after which any remaining sums in the Landfill Fund may be released into the Town of Darien General Fund, reinvested or used in any fashion allowed by law. The Town Board shall be allowed to stagger or partially release such funds over intervals. However, in no event will the Town Board allow the release of any part of the principal of the Landfill Fund until at least fifteen (15) years after the Department of Natural Resources approves Final Closure of the site, except as permitted under paragraphs 2 and 6. Such methods and duration of final disbursement of the Landfill Fund shall be determined by the Town Board by resolution or ordinance prior to June 1, 1992. Subsequent town boards may extend

the term of such disbursements so funds are released at later dates, but may not provide for earlier distributions, except as may be specifically authorized in the Landfill Fund.

8. Reserve Fund. Notwithstanding the foregoing general provisions pertaining to the Mallard Ridge Landfill Fund, twenty-five percent (25%) of the landfill payments to the Town and County shall be set aside in a separate account which shall be designated the "Mallard Ridge Landfill Reserve Fund". The Landfill Reserve Fund shall be set aside to protect the Town and County from landfill-related claims and liabilities associated with the Mallard Ridge Landfill and shall exist in lieu of landfill liability impairment insurance. It is intended that the twenty-five percent (25%) of the landfill payments exclusive of the annual payment to the Town and County, would be immediately, upon receipt, placed into the Landfill Reserve Fund. The Town Board shall determine the duration of the Landfill Reserve Fund, but the fund shall not be released for purposes other than environmental claims or related liabilities related to the landfill site, as mentioned above, for a period of not less than twenty (20) years after the Department of Natural Resources approves Final Closure of the site.

9. Town and County Compensation. Direct compensation payable to the Town and County under this agreement shall be paid through the Landfill Fund, except as specifically provided for in this Agreement, and shall be divided and shared as follows:

- A. Annual payment to the Town: \$100,000  
(paid directly to the Town by the Operator.)
- B. Annual payment to the County: \$ 15,000  
(paid to the County from the Landfill Fund out of the quarterly payments as they become available.)



Annual increases shall apply to such annual payments as provided for in Article VI, Section 1 of this Agreement, which shall also control the schedule of such payments.

After crediting the Operator with the annual Town fee against the quarterly payment, the balance of such fees shall be divided such that twenty-five percent (25%) are immediately placed into the Reserve Fund and seventy-five percent (75%) are otherwise available to be paid into the Landfill Fund. Those payments into the Landfill Fund shall continue to accrue until they reach the sum of One Million Dollars (\$1,000,000). After such sum is reached, the County shall thereafter be entitled to twelve percent (12%) of funds thereafter payable to the Landfill Fund following the deduction of the annual payments listed in paragraphs A. and B. above and after the 25% Reserve Fund payment. The Town shall be entitled to withdraw any interest earned on the money in the Landfill Fund after the sum of One Million Dollars (\$1,000,000) is reached.

All payments to the County under this Agreement shall be made within ten (10) days of the receipt of such funds by the Town.

The County shall place all of the funds received under this Agreement into a separate fund maintained by the County and shall be used solely for solid waste and recycling purposes. The County shall provide to the Town a written accounting of funds received under this Agreement that have been spent in the previous year by the County. The County Solid Waste Manager shall be responsible for providing this information to the Town Board no later than February 28 of each year that the Active Fill Area receives waste.



10. Compensation From Existing Site. Notwithstanding any other provision in this Agreement or Landfill Fund, payments received from the Operator for monies received from the existing Mallard Ridge Landfill site shall be governed by this section.

The initial payment to be received by the Town for waste received at the currently-licensed facility known as Mallard Ridge Landfill between August 23, 1991 and December 31, 1991, shall be used to pay the Town the sum of One Hundred Thousand Dollars (\$100,000) representing the Town's 1992 annual payment. Any remaining sums shall be placed into the Landfill Funds as otherwise provided for in this Agreement (i.e., 75% into the general Landfill Fund and 25% into the Reserve Fund).

In the event that the Active Fill Area has not yet received waste as of January 15, 1993, the annual fees to be paid to the Town and County (\$100,000 to the Town, \$15,000 to the County, plus the 8% annual increase provided for in the Agreement), shall be made from the Landfill Fund to the Town and County. All other compensation received from the Operator shall otherwise be placed into the Landfill Funds as provided for in Exhibit "D". Annual payments to the Town and County shall only be paid from the Fund in the event that Waste Management does not make those payments directly as provided for under Article VI, paragraph 1 of the Agreement.

Exhibit "E"

AIR QUALITY STANDARDS

The Operator shall comply with all air quality standards required under the Plan of Operation or any modifications thereof or any other requirements of the Department of Natural Resources or United States Environmental Protection Agency.

In addition, the Operator shall specifically comply with all of Administrative Code Regulations pertaining to emerging gases emanating from the site including, but not limited to, Wisconsin Administrative Code Chapters 400 et. seq., 500 et. seq., and 600 et. seq. Notwithstanding the foregoing, the Operator shall only be required to comply with those regulations which the Department imposes upon existing landfills such as the Active Fill Area and the Operator will not be required to comply with those regulations that pertain only to landfills constructed after the Active Fill Area has been constructed.

The Landfill Operator shall take all reasonable precautions to minimize the amount of dust and particulate matter that leaves the Active Fill Area or its access roads during construction, operation, and closure. Total suspended particulates shall not exceed 150 micrograms per cubic meter.

Exhibit "F"

SPECIAL WASTE

1. Introduction. All special waste as defined by the Department of Natural Resources requires the approval of the Department prior to disposal at the Active Fill Area. The Operator shall comply with all requirements of the Department, including those in the Plan of Operation and modifications thereof, pertaining to special waste.

2. Special Waste Management Program. The Operator has proposed to develop a special waste program to screen non-municipal waste streams which are proposed to be accepted on a routine basis. The program is developed to:

- A. Identify special waste types and volumes being accepted at the Active Fill Area.
- B. Insure acceptance of only waste authorized by applicable regulatory programs.
- C. Insure acceptance of waste which does not adversely impact on the landfill operation or its design or insure acceptance of waste such that environmental hazards will not be increased thereby.

The Operator shall review all non-municipal waste and evaluate the same for environmental and operational concerns. To the extent special conditions for testing or handling are deemed necessary, those proposed conditions shall be set out in written form by the Operator's technical manager.

3. Categorizing Special Wastes. All waste shall be categorized into three special waste categories. Category A wastes are special wastes which will require various analytical testing

prior to acceptance. Category B wastes are evaluated without the need for chemical analysis or require special disposal operations. Category C wastes will require DNR approval prior to acceptance. Appendix A lists the waste number, name of waste, analytical protocols, and disposal operations for the waste within each category.

The Operator shall acquire generic DNR approval of Categories A and B wastes that are within the acceptance limits defined in the attached appendices. Once generic DNR approval is granted, the same shall be forwarded to the Standing Committee and the County Solid Waste Manager. Category C wastes are those that the DNR will review on a case-by-case basis. All such applications and DNR responses shall be provided to the Standing Committee and the Solid Waste Manager of the County, such mailing to be within three (3) business days of application or receipt of response.

All categories of waste will be logged into the site at the time of acceptance. All Categories A and C wastes include a "manifest" ticket which identify the date, generator, volume, and waste type for each special waste received, while only those Category B wastes shall be required to have such manifest tickets as are set forth in the appendices attached hereto and delineated with a "\*".

All special waste shall be evaluated for the safety concerns of the Operator's workers. If OSHA Level E protection equipment is not sufficient to protect the workers, such special waste will not be accepted.

All special waste which exceed the defined protocol limits will be rejected. All waste denial rejections will be kept



on file by the Operator for inspection by the Standing Committee, their designee, or the County Solid Waste Manager during business hours. Such denials and rejections shall be kept at the Mallard Ridge Landfill office.

The limits contained in the analytical protocols (Appendix B) are based on the toxic characteristic leaching procedure ("TCLP") for testing of special waste.

4. Category A - Special Waste. Category A waste requires special analytical testing. Waste types, analytical protocols and handling procedures are identified in Appendix A. All Category A waste require a special waste profile sheet and laboratory report. Acceptance limits are based upon federal, state, and Operator requirements. If these limits are exceeded, the waste will be rejected.

Category A-12 wastes are wastes that would potentially not require analytical testing. If the product has a material data safety sheet ("MSDS") which sufficiently characterizes the waste, this can be substituted for analytical testing requirements. If the MSDS does not contain sufficient information, the waste is rejected or protocol A testing would be required prior to the special waste being received. All such testing shall be provided to the Standing Committee and County Solid Waste Manager upon receipt by the Operator.

5. Category B - Special Waste. Category B waste does not require analytical analysis. If these wastes are categorized by waste types (asbestos, off-spec foods, etc.). Category B wastes are identified in Appendix A, which identifies waste types and

handling procedures. Also identified are Category B wastes which require a special waste profile sheet.

6. Category C - Special Waste. Category C waste will be submitted to the DNR for review after the special waste profile sheet and laboratory reports are reviewed and the waste characteristics meet federal, state, and Operator requirements. Submittal to the DNR will consist of the analytical report and the manufacture or type and volumes to be accepted. The submittal to the DNR will be in writing, and, at the time such submittal is sent to the DNR, a copy shall be provided to the Standing Committee and the County Solid Waste Manager.

7. Disposal Procedures. The specific waste types that comprise Categories A - C are defined in Appendix A along with the specific analytical protocols, if applicable, and the method of disposal of each type of waste. The various analytical protocols and waste acceptance limits are contained in Appendix B. Proposed disposal procedures are summarized in Appendix C.

Appendix D supplies copies of the forms used to submit waste streams to the Operator for evaluation acceptance. A copy of all such documents shall be included in the information provided to the Standing Committee and the County Solid Waste Manager.

APPENDIX A  
SPECIAL WASTE CATEGORIES

APPENDIX A - TABLE 1  
WASTE CATEGORY A

| <u>WASTE NUMBER AND NAME</u> |                                                                                            | <u>ANALYTICAL<br/>PROTOCOL<br/>APPENDIX A</u> | <u>DISPOSAL<br/>OPERATION<br/>APPENDIX C</u> |
|------------------------------|--------------------------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------|
| A-01                         | Foundry Sand                                                                               | Protocol A                                    | Procedure A                                  |
| A-02                         | Municipal, Hospital &<br>Boiler Ash                                                        | Protocol A                                    | Procedure A                                  |
| A-03                         | Ink Waste                                                                                  | Protocol A                                    | Procedure A                                  |
| A-04                         | Paint & Paint Sludges                                                                      | Protocol A                                    | Procedure A                                  |
| A-05                         | Metal Treatment/<br>Preparation Sludges                                                    | Protocol A                                    | Procedure A                                  |
| A-06                         | Grinding Sludges & Swarfs                                                                  | Protocol B                                    | Procedure A                                  |
| A-07                         | Waste Glues & Adhesives                                                                    | Protocol A                                    | Procedure A                                  |
| A-08                         | Ceramic Production/<br>Manufacturing Waste                                                 | Protocol A                                    | Procedure A                                  |
| A-09                         | Waste Water Treatment<br>Wastes                                                            | Protocol C                                    | Procedure C                                  |
| A-10                         | Contaminated Soils from<br>Petroleum Products                                              | Protocol D                                    | Procedure A                                  |
| A-11                         | Contaminated Soils from<br>Heavy Metals                                                    | Protocol A                                    | Procedure A                                  |
| A-12                         | Disposal of a Single<br>Chemical Substance                                                 | Protocol A                                    | Procedure A                                  |
| A-13                         | Category C Waste Where<br>the Total Annual Disposal<br>Volume is 10 Cubic Yards<br>or less | As listed on<br>Table 3                       | As listed on<br>Table 3                      |

APPENDIX A - TABLE 2  
WASTE CATEGORY B

| <u>WASTE NUMBER AND NAME</u>                                                                                                      | <u>DISPOSAL<br/>OPERATION<br/>APPENDIX C</u> |
|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| B-10 Asbestos                                                                                                                     | Procedure B                                  |
| B-02 Hospital Waste/Non-Infectious                                                                                                | Procedure D                                  |
| B-03 Off-Spec Food and Food Grade Chemicals<br>excluding those which contain free liquids                                         | Procedure A                                  |
| B-04 Commercial/equipment which is not longer<br>used (florescent light bulbs, non PCB<br>light ballasts, non-usable bottle caps) | Procedure A                                  |



APPENDIX A - TABLE 3  
WASTE CATEGORY C

| <u>WASTE NUMBER AND NAME</u>                                           | <u>ANALYTICAL<br/>PROTOCOL<br/>APPENDIX B</u> | <u>DISPOSAL<br/>OPERATION<br/>APPENDIX C</u> |
|------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------|
| C-01 General Sludge Waste                                              | Protocol C                                    | Procedure B                                  |
| C-02 Pollution Control Waste                                           | Protocol B**                                  | Procedure B                                  |
| C-03 Remedial Projects,<br>Investigative Wastes,<br>Spill Cleanups     | Protocol B**                                  | Procedure A                                  |
| C-04 All other Non-Municipal<br>Waste not Categorized<br>in Tables 1-3 | Protocol A**                                  | Procedure<br>A***                            |

\*\* Protocols may be modified depending upon waste, Department approval required.

\*\*\* Procedures to be modified on waste by waste review, Department approval required.

APPENDIX B

ANALYTICAL TESTING PROTOCOLS

\*\*\* TO BE PROVIDED BY OPERATOR \*\*\*

## APPENDIX C

### WASTE HANDLING PROCEDURES

#### DISPOSAL OPERATIONS

Procedure A Co-disposal. No waste to be placed within 10 feet of base or sidewall granular blanket.

Procedure B 24-hour notice prior to acceptance to landfill.

Excavate trench into existing refuse.

Unload waste into trench.

Cover with three feet of existing refuse from trench excavation.

Waste must be wetted (or bonding agent used) and transported in double containers. (Asbestos only.)

Trenches are to be greater than 50 feet from perimeter of the fill area, and greater than 10 feet from base and sidewall granular blanket.

Survey trench to locate waste.

Procedure C Co-disposal. cover immediately with lift or refuse upon receipt. No waste to be placed within 10 feet of base or sidewall granular blanket.

Procedure D Co-disposal. No waste placed within 10 feet of granular blanket nor 50 feet from outside slope.

## APPENDIX D

### WMI SPECIAL WASTE FORMS

In order to evaluate special wastes, information must be submitted to the Operator on one of two forms. All Category A and C wastes, (except for Category A-12) are submitted on Form WMNA-0089A. Category B wastes and A-12 wastes can substitute Form WMNA-0089B. The WMNA-0089A form includes additional information regarding analytical testing information, which may not be necessary for evaluation of some waste types. (See Exhibit "F" pp. 13 and 14.)

In addition to these forms, special waste submittals to Waste Management also must include the "F-500" form. The "F-500" form is the Generator's documentation that the waste does not contain the halogenated compounds listed in NR 181.16(2)(a) Table II, hazardous waste identification No. F-500. Category A and C wastes are also analyzed to ensure these compounds are not present in the test sample, in addition to the Generator's statement.

When a waste is sampled, the special waste also requires submittal of a SMNA-0089C form. This form documents that the Generator has taken a representative sample of this waste for analysis. Samples of all of these forms are included at the end of this appendix. (See Exhibit "F" pp. 13 through 16.)

The common way that a special waste review procedure will require a customer to request approval to dispose of a "special waste". The Operator shall provide him with all the necessary forms and information. The representative sample of the waste will be sent to the testing laboratory. When the analytical work is



complete, the complete package will be sent to the Operator. The total package, along with a special waste decision sheet shall be submitted to the Technical Manager for review. If the waste is approved by the Technical Manager, the package is then submitted to the General Manager for review/approval. If the waste is then approved, the customer is notified, and a contract is signed to handle the waste. After these steps are completed, the waste would be accepted at the site. Category C wastes will have the additional step of DNR review and approval, which would precede the customer notification of acceptance.

Exhibit "G"

CLAY BORROW PIT

This agreement provides for the rezoning of specified property on the former Long, Wheelock and Pounder properties which are legally described in Exhibit "B".

Such clay shall be extracted as set forth in the conditional use permit(s) and all the conditions stated therein as may be established by the Walworth County Park and Planning Commission and as approved by the Walworth County Board. Such conditional use permit(s) and the conditions stated therein shall be incorporated by reference into this Agreement and shall be enforceable by the Town and County either through the County's zoning regulations or as a provision of this Agreement.

In addition to the conditional use permit(s) requirements, the Operator agrees to extract clay in phases. The Operator shall indicate phases or portions of such parcels not exceeding 15 acres in any one phase from which clay shall be extracted. Upon completion of the extraction of clay out of each phase, the same shall be restored and in the case of the former Pounder parcel, reforested, such restoration and reforestation to be completed within 12 months that such phase is deemed completed.

No more than two phases shall be open at any point in time. No two phases shall be open for longer than six (6) months at the same time so that after a new phase is opened, the previous phase shall be deemed closed no later than six (6) months after operations begin on the next phase. Operations shall include the stripping of any top soil or the extraction of any clay therefrom.

The Operator shall comply with all reforestation requirements as may be established by the County in its conditional use permit(s) or as directed by the Walworth County Land Conservationist or its designee, as set forth in Article IV, Section 22.

Operations to extract clay in the areas governed by this agreement shall be governed by Article IV, Section 2. Operations shall be defined as the operation of any vehicles, machinery or equipment.

Exhibit "H"

WELL TESTING

In addition to the wells subject to background testing and groundwater monitoring as required by the Department in its approvals of the Feasibility Report and Plan of Operation, the Operator shall conduct the following well sampling program on the wells located on the following properties currently owned by:

Bill Lenz

Bill Dremel

Thomas Evans

Bob Koehl

Waste Management Trailer Court Well

Jake Greidanus

In addition, Turtle Creek shall be tested at Klug Road and at its intersection with State Highway 11.

An additional two (2) wells shall be included in the following well sampling program; but they shall not be sampled more than once per year. The Standing Committee may choose which wells shall be included and shall control the frequency of such tests.

The results of all such well testing shall be provided (one each) to the Town Board, Standing Committee, Solid Waste Manager, and the property owner in question.

1. Well Sampling. Upon receipt of written permission of the respective property owners and occupants (if not owner occupied), in a form acceptable to the Operator, it shall sample the water supply wells of each of the properties identified above for the purpose of determining the water quality of well water of these properties. The first tests shall be commenced within three (3)



months after the execution of this Agreement by the Negotiating Committee, Town and Operator and shall be repeated quarterly thereafter for the first year. The testing shall be reduced to annually thereafter until 40 years after Final Closure.

In the event that the owner(s) and user(s) of any well so identified refuse to give Waste written consent, Waste shall advise the Standing Committee and the Standing Committee shall designate additional wells to reach the above specified number of wells to be sampled during that year. The results shall be promptly furnished, upon receipt by the Operator, to the respective owners (and occupants) of each property tested and to the Standing Committee. The samples shall be analyzed for the following parameters:

|       |                  |
|-------|------------------|
| Field | Ph               |
|       | Conductivity     |
|       | Color            |
|       | Odor             |
|       | Turbidity        |
|       | Temperature      |
| Lab   | Total Alkalinity |
|       | Sulfate          |
|       | Manganese        |
|       | Total Iron       |
|       | Total Hardness   |
|       | Chloride         |

The Operator shall be responsible for the costs of collecting and analyzing the samples. The samples shall be collected by a consulting firm selected by the Operator and agreed to by the Standing Committee.

The samples collected from the above specified wells shall be analyzed by a NR 149, Wis. Adm. Code, certified lab utilizing the following procedure. The Operator shall provide the Standing Committee with a current list of certified labs which it finds acceptable. The Standing Committee shall select one lab from this

list and advise the Operator of its selection. The Operator shall submit all samples collected to that lab providing the Operator can negotiate, to its sole satisfaction, an acceptable price from that lab for the analytical work. In the event an acceptable price cannot be negotiated, the Operator shall advise the Standing Committee and the foregoing procedure shall be used to select another mutually acceptable lab. In the event that the Operator finds the price of the analytical work unacceptable, the lab having the lower quoted price shall be utilized. In any event, the Operator shall deliver the test results to the Standing Committee within sixty (60) days from its receipt of notice of the Standing Committee's initial lab selection; the Standing Committee shall notify the Operator of any second selection within five (5) days of the Operator's request for same or any time expired beyond five (5) days shall be added to the sixty (60) day period afforded the Operator.

2. Response to Well Contamination. (a) If the Operator, DNR or any independent test of a sample from a private water supply well (said test to have been conducted in accordance with DNR's protocols for sampling and analysis, including the use of a DNR certified lab) indicates an exceedance of a primary drinking water standard as defined in NR 109 or health related Enforcement Standard as defined in NR 140.10 of the Wis. Adm. Code, as amended from time to time, then:

- (i) The Operator shall, upon notice from DNR or the Standing Committee, secure a sample from said well and test the same [utilizing the procedure under sub (1)] to confirm the exceedance. The Operator

shall deliver the test results to the Standing Committee within thirty (30) days of said notice. If the results of this test confirm the exceedance, then the exceedance will be said to have been documented.

If the results of this test do not confirm the exceedance, then the Operator shall collect a third sample utilizing the same procedure. The Operator shall deliver the test results to the Standing Committee within sixty (60) days of said notice. If results of the third sample confirm the exceedance, then the exceedance will be said to have been documented. If the results of the third sample do not confirm an exceedance, then the exceedance will be said not to have been documented.

- (ii) If the results of the Operator's test under subparagraph (i) document the exceedance, then the Operator shall forthwith deliver, at its sole cost, potable water to residents and livestock residing upon the property served by the well and utilizing the same.
- (iii) If upon further investigation, including additional testing by the Operator, it is determined by DNR that the exceedance is caused by a source other than the landfill, then the Operator's obligation to provide potable water will cease.

(iv) In the event the above investigation establishes, to DNR's satisfaction that the landfill is the source of the exceedance, then the Operator shall take appropriate measures to provide a permanent potable water supply.

(v) The foregoing procedure of providing water under (ii) upon the detection of an exceedance ("First Response") shall only be binding upon waste if: (i) the well at which the exceedance was detected is within a one and one-half (1½) mile radius of the proposed Expansion as delineated in the Feasibility Study and (ii) the well owner and tenant, if any, reasonably cooperates with the Operator in the investigation under subparagraph (iii) and (iv).

(b) If the Operator, DNR, or any independent test of a sample from a private water supply well (said test to have been conducted in accordance with DNR's protocols for sampling and analysis, including the use of a DNR certified lab) indicates an exceedance of an indicator standard as defined in the table below subparagraph (ii), then:

(i) The Operator shall, upon notice from DNR or the Standing Committee, secure a sample from said well and test the same [utilizing the procedure under sub (1)] to confirm the exceedance. If the results of this test confirm the exceedance, then the exceedance will be said to have been documented. If the results of this test do not confirm the exceedance, then the Operator shall collect a third



sample utilizing the same procedure. If results of the third sample confirm the exceedance, then the exceedance will be said to have been documented. If the results of the third sample do not confirm an exceedance will be said not to have been documented,

- (ii) If an exceedance of one of the parameters listed in the table below is documented as described in subparagraph (i), then the Operator shall test the well for the following inorganic substances: arsenic, cadmium, chromium, lead, mercury, barium, selenium, silver, copper and zinc.

| <u>Parameter</u>      | <u>Standard</u>               |
|-----------------------|-------------------------------|
| Sulfate               | 400 mg/l                      |
| Iron                  | *                             |
| Manganese             | *                             |
| Alkalinity (as CaCO3) | 1000 mg/l                     |
| Hardness (as CaCO3)   | 1000 mg/l                     |
| Chloride              | NR 140 Enforcement Standard** |

\* As determined by the Wisconsin DNR as part of site plan approval.

\*\* As amended from time to time.

3. Surface Water Sampling. In addition, the Operator shall within three (3) months after all parties have executed this agreement, begin annual sampling Of Turtle Creek at Klug Road and at its intersection with State Highway 11. Such sample shall be the aforescribed parameters except VOC's and shall continue until 40 years after Final Closure.

EXHIBIT "I"

APPLICABILITY OF EXISTING LANDFILL AGREEMENT

WHEREAS, the Town and the Operator's predecessor had entered into a stipulation referenced on page 53 of the Final Negotiated Mallard Ridge Landfill Agreement (hereinafter "Agreement") resolving issues raised in litigation (said stipulation hereinafter referred to as "Stipulation"); and

WHEREAS, said Stipulation provided that fees be paid to the Town on a monthly basis for waste received at the site up to a maximum of two hundred thousand (200,000) cubic yard per year, and an additional annual payment representing five cents (5¢) per cubic yard in excess of said volume; and

WHEREAS, the Operator has paid to the Town its monthly payments; and

WHEREAS, the Town and Operator have agreed to resolve the remaining payments due for 1991, specifically taking into account the applicability of the Agreement to the terms of the Stipulation;

NOW, THEREFORE, the Town and Operator do hereby agree as follows:

1. That the Operator shall waive any claim for reimbursement for the monthly fees already paid to the Town.
2. That on or before January 15, 1992, the Operator shall provide the Town with the total quantity of waste received at the site for 1991, and documents supporting the same, showing the total yardage of waste received at the site. After deducting the two hundred thousand (200,000) yard base figure, the remaining yardage shall be prorated such that the five cent (5¢) exceedance premium payable to the Town under the Stipulation shall apply to the time

the time period from January 1, 1991 through August 22, 1991. This proration shall be computed on a daily basis wherein August 22 represents the 234th day of the year, and thereby the total exceedance shall be multiplied by .64 (234/365), such figure representing the yardage subject to the five cents (5¢) per yard payment. The Operator shall pay to the Town a sum representing five cents (5¢) per yard for such prorated amount.

3. That the Operator and Town agree to waive any further claims as against the other for any waste that is deposited at the existing solid waste facility for 1991 under the terms of the Stipulation, or any claim for rebate, reimbursement, or repayment for sums already paid under said Stipulation. The Town <sup>does not</sup> waive~~s~~ its right to contest the accuracy of the amounts reported by Waste Management.