**WASTE FROM SOLAR AND ELECTRONIC PRODUCTS DISPOSAL SERVICES AGREEMENT**

This Agreement is executed on this [●]th day of [●] 20[●] ("**Effective Date**") at [*insert place of execution*], by and between,

[Insert Company Name], a company incorporated under the laws of [insert country], having its registered office at [insert address] (hereinafter "**Client**" which term shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors and permitted assigns).

**AND**

[●], a (company/partnership firm/proprietorship concern) incorporated under the laws of [insert country], having its registered office at [●], (hereinafter "**Waste Operator**" which term shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors and permitted assigns)

Hereinafter referred to each as a “Party” and jointly as the “Parties”.

**RECITALS**

1. The Client is an off-grid solar company, or a distributor of off-gird solar products, and wants to establish a process for recycling of its non-functioning products, which is also regarded as e-waste.
2. The Waste Operatoris a licensed and competent provider of services for collection, transportation, dismantling and recycling of Waste and other related products.
3. The Client has approached the Waste Operator to procure specific services (as detailed in the Statement of Work) on a non-exclusive basis from time to time, as part of the Client’s e-waste management processes, and the Waste Operator is willing to provide such services to Client through its personnel.

1. The Parties have agreed to reduce into writing the detailed terms and conditions governing the Statement of Work, being these presents.

**NOW**, **THEREFOR**E, in consideration of the foregoing, mutual undertakings and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **DEFINITIONS AND INTERPRETATION**
	1. **Definitions**

In this Agreement, unless the context otherwise required:

"**Applicable Law**" means all applicable international regulations and standards, national, municipal, and local laws, regulations, rules, and ordinances governing the activities described generally in this Agreement, including, without limitation; the *[insert all applicable national environmental legal act(s)]*; all applicable labour laws; applicable regulations of the Ministry *[insert appropriate national ministry]*;

 "**Affiliate**" means, with respect to a Party, an entity which:

1. is, directly or indirectly, Controlled by such Party;
2. directly or indirectly, Controls such Party; or
3. is, directly or indirectly, 'Controlled' by a company or corporation that also, directly or indirectly, Controls such Party;

"**Confidential Information**" means;

1. any information of whatsoever nature (including technical, financial, commercial, legal or intellectual property), and in whatsoever form (including oral, electronic or digitised) relating in whole or in part to the other Party or its customers, its Affiliates or their customers, or their business, know-how or technology disclosed by or on behalf of the disclosing Party to the receiving Party, whether before, on or after the date of this Agreement, which is marked as "confidential" at the time of disclosure or identified as "confidential" at the time of oral disclosure and also summarized and designated as "confidential" in writing, within [●] calendar days of such oral disclosure;
2. any information or material derived from information described in (a) above;
3. any analyses, compilations, studies and other material prepared by or on behalf of the receiving Party or its Affiliates which contain, otherwise reflect or are generated (wholly or partly) from information or material described in (a) and/or (b) above; and
4. any terms, conditions or arrangements discussed in relation to this Agreement.

Confidential Information will not include any information or data which:

1. is already in the public domain at the time of disclosure or later becomes available to the public other than as a direct or indirect result of the information being disclosed in breach of this Agreement;
2. is hereafter rightfully furnished to the receiving Party by a third party, provided that such third party was not bound by or subject to an obligation of confidentiality owed to disclosing Party or its Affiliates in respect thereof;
3. the receiving Party independently developed without use of Confidential Information, prior to it being provided by or on behalf of disclosing Party or which is independently developed by the receiving Party (or its Affiliates) without violating any of its obligations under this Agreement, and which is free from restrictions as to its use or disclosure;
4. the disclosing Party has confirmed in writing that it is not confidential;
5. is required to be disclosed by any governing law; or
6. is approved for release by written agreement of the disclosing Party.

"**Control**" means having the right to exercise or cause the exercise of voting rights of more than 50% (fifty percent) of the voting shares of such company or corporation or the right to appoint or remove majority of the directors of such company or corporation. The term "**Controls**" and "**Controlled**" shall be construed accordingly;

"**Designated Facility**" has the meaning given in clause 5.2;

"**Government Authority**" means the Government of  *[insert country]*, or any political subdivision under statute, ministry, Government department, including any regional, local or municipal authority or governmental body thereof or any other governmental or statutory body under the direct or indirect control of the Government of *[insert country],* or of any political subdivision under statute, ministry, department, agency, corporation, commission, or any regional, local or municipal authority or governmental body thereof, and shall include without limitation any other executive, legislative, judicial or administrative body having jurisdiction over the Services or any other obligation of the Waste Operator or the Client under this Agreement;

"**Good Operating Practices**" means the standards, practices, methods and procedures as practiced globally and conforming to all technical requirements, Applicable Laws, directives, clearances and the requirements of any Government Authority and that degree of skill, diligence, prudence and foresight which would reasonably be expected from a skilled, prudent and experienced waste operator, engaged in the same type of undertaking under the same or similar circumstances as the Waste Operator pursuant to this Agreement;

"**VAT**" means any and all goods, sales and services tax payable in connection with the Services to be provided under this Agreement;

"**Holder Unit**" has the meaning given in clause 3.1;

"**Insolvency Event**" means, in relation to a person, that:

1. where a person is unable to pay its debts or is liable to be wound up liquidated by a court of competent jurisdiction;
2. the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the person;
3. a composition, compromise, assignment or arrangement with any creditor of the person;
4. initiation of a corporate insolvency resolution process;
5. the appointment of a liquidator, receiver, custodian, manager, administrative receiver or insolvency professional in respect of the person;
6. enforcement of any encumbrance over any assets of the person including any process undertaken;
7. an order for its winding-up, administration, judicial management, declaration as a sick company, rehabilitation or dissolution is made; or
8. any other analogous step or procedure is taken in any jurisdiction;

"**Intellectual Property Right**" means all or any rights of the following types, which may exist or be created under the laws of any jurisdiction: (i) patents, patent applications, patent disclosures and inventions; (ii) trademarks, brand name, service marks, trade dress, trade names, logos corporate names, internet domain names, eligible layout right, chip topography right and registrations and applications for the registration thereof together with all of the goodwill associated therewith; (iii) copyrights and copyrightable works (including computer programs) and registrations and applications thereof; (iv) trade secrets, know-how and other confidential information; (v) waivable or assignable rights of publicity, waivable or assignable moral rights; (vi) registered design or other design right; and (vii) all other forms of intellectual property, such as data and databases, including all applications, renewals, extensions and revivals of, and all rights to apply for, any of the foregoing rights and confidential trade secrets related to research, development, design, manufacturing, running, maintenance or repair of the Waste, such rights being either directly or by way of licenses, permissions, approvals or agreements in such intellectual property rights granted by third parties;

"**Prohibited Act**" means in connection with the performance of the obligations under this Agreement, directly or indirectly, participating in any of the following:

1. corruption, namely making or offer any payment, gift or other advantage which:
2. would breach any anti-bribery and corruption laws or regulations applicable, including without limitation the [insert applicable bribery act], as amended; or
3. is intended to, or does, influence or reward any person (whether or not they are in the public sector) for acting in breach of an expectation of good faith, impartiality or trust or otherwise performing their function improperly;
4. sexual abuse or harassment, namely any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, whether by force or under unequal or coercive conditions;
5. modern slavery, namely any action in breach of the requirements of the [insert applicable modern slavey act] (as may be amended) or the ILO Core Labour Conventions 29 (Forced Labour) and 105 (Abolition of Forced Labour), as well as applicable employment laws and regulations;
6. money laundering which would breach any anti-money laundering laws or regulations, including without limitation the [insert applicable national money laundering act].

**"Mass Balance Report"** is an excel spreadsheet entailing mass balance information that determines and documents treatment and depollution results and monitors downstream fractions for e-waste in a transparent, traceable and comparable manner;

"**Statement of Work**" means the statement of work as set out in Annex 1;

"**Services**" means the services to be provided by the Waste Operator in relation to the Waste as set out in the Statement of Work;

"**Taxes**" means all taxes associated with the provision of the Services including without limitation any applicable VAT and "**Tax**" shall be construed accordingly;

"**Term**" has the meaning given in clause 2.1;

"**Waste Operator**" shall mean anorganization that is appointed by the Client to (a) undertake collection, transport, dismantling and recycling the Waste at a Designated Facility and has control over the affairs of the Designated Facility; and (b) is in compliance with the obligations of an '*transporter*', '*operator of disposal facility*', and any other applicable obligations under the *[insert relevant act]*, and any other Applicable Law; and

"**Waste Holder**"means anorganization that is the primary holder of the solar waste stream to be collected. This could be an original equipment manufacturer, solar park/utility park, an NGO (non-government organization) facilitating rural collections, etc.; and

"**Waste**"meansproducts that are discarded by the Waste Holder or Client and are collected from the Waste Holder by the Waste Operator for the purpose of the Agreement. This is limited to solar products and resulting fractions, including off grid solar products, (e.g. solar home systems, solar lamps, etc.), photo-voltaic panels, batteries, wires and cables, lamps, other electronic products connected in a solar home system or as stand-alone electronic product (e-waste).

* 1. **Interpretation**

In this Agreement (except where the context otherwise requires):

1. clause and clause headings and any table of contents are inserted for ease of reference only and shall not affect construction;
2. any reference to a Party is to a party to this Agreement and also includes a reference to that Party's, successors, transferees and permitted cedes and assigns;
3. words importing the singular shall include the plural and vice versa and words importing one gender shall include the other genders;
4. any reference to a "**recital**", "**clause**", "**sub-clause**" or "**Annex**" is to the relevant recital, clause, sub-clause or Annex to this Agreement;
5. any reference to "**include**", "**including**" and "**in particular**" (or any similar term) is not to be construed as implying any limitation to any preceding words and general words introduced by the word "**other**" (or any similar term) shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things;
6. any reference to a "**person**" shall include any individual, firm, body corporate, association, joint venture, partnership, government, state or agency of state, in each case whether or not having a separate legal personality and reference to a "**company**" shall be construed so as to include any company, corporation or other body corporate wherever and however incorporated or established;
7. any reference to acts, statutory provisions, statutory instruments or enactments shall include references to any consolidation, re-enactment, modification or replacement of the same from time to time and to any subordinate legislation made under the same; and
8. no rule of construction applies to the disadvantage of one Party on the basis that the Party put forward or drafted this Agreement or any provision in it.
9. **TERM & EFFECTIVENESS**
	1. **Term**

This Agreement shall be effective as of Effective Date and shall be valid for a period of [*define length of contract]* from the Effective Date ("**Term**") or until the completion of the Statement of Work as set out in Annex 1, whichever is earlier, or upon termination of this Agreement as provided for under this Agreement. The Parties may agree to extend the Term in writing to be signed by both parties on mutually agreed terms and conditions. For the avoidance of doubt, if the Term is not extended, this Agreement shall automatically terminate upon expiry of the Term as stipulated in this clause.

* 1. **Order of Precedence**

The following Annexes are hereby made part of this Agreement and incorporated by reference hereof. To the extent there is a conflict between this Agreement and the Annexes, the terms of this Agreement shall prevail:

1. Annex 1 – Statement of Work;
2. Annex 2 – Pricing Structure.
3. Annex 3 – Details of Holder Unit
4. Annex 4 – Format of Reporting
5. **WASTE OPERATOR’S OBLIGATIONS**

Waste Operatorshall be responsible for and perform all the Services, including the removal, handling and transportation of Waste from a Holder Unit to the Designated Facility, and disposal or recycling or reclamation of the Waste. In providing the Services, the Waste Operator shall comply with any and all Applicable Laws, meet Good Operating Practice and not commit any Prohibited Act.

* 1. **Collection and Transportation**
1. The Waste Operator shall, within [●] calendar days from a notice by the Client, collect, handle and transport the Waste from the sites identified by the Client (each a "**Holder** **Unit**"), details of which are set out in Annex 3, in accordance with any and all Applicable Laws, Good Operating Practice and terms of this Agreement.
2. The Waste Operator shall provide necessary training to its personnel on areas related to transport and logistics, handling of e-waste, safety and security of personnel, recycling and other applicable measures, as may be required to provide Services under this Agreement.
3. The Waste Operator shall select appropriate containers and be responsible for weighing, packaging, labelling, and marking of containers for Waste prior to transport, disposal or recycling in accordance with all Applicable Laws, Good Operating Practice and terms of this Agreement.
4. The Waste Operator shall provide to the Client details of all compliance and mandatory documentation required for transportation, inventory and other reports as per Applicable Law and Good Operating Practice.

1. While at the Holder Unit, the Waste Operator shall comply with the quality, health, safety and environment regulations and precautions of the Holder Unit and Waste Holder, which are communicated to the Waste Operator or are posted (e.g., speed limits, restricted areas, and the like) at the premises of the Holder Unit.
2. The risk of loss and title of the Waste shall pass to the Waste Operator at the time Waste Operator takes possession and control of the Waste at the Holder Unit.
3. The Waste Operator shall immediately notify the Client in the event of any emergency or accident during transport or handling the Waste and shall take all reasonable and necessary response actions as per Applicable Law and Good Operating Practice to mitigate such emergency or accident. The Waste Operator shall indemnify and hold harmless the Client for any liability that may arise as a result of such an emergency or accident.
	1. **Dismantling/Recycling**
4. Waste Operator ensures all disposal of Waste will be in accordance with Applicable Law, Good Operating Practice and Waste Operator’s standards.
5. The Waste Operator shall report details of treatment performance using a dedicated tool (Mass Balance Report), adopted for performing its obligations under this Agreement. The reports shall be sent to the Client after each batch has been processed from the date on which the first batch of Waste reaches the Designated Facility for processing. The format and details of the report shall be as in the format set out in Annex 4.
6. **PAYMENT AND TAXES**
	1. The Client shall pay to the Waste Operator the price specified in Annex 2 in consideration of the performance by the Waste Operator of its obligations under this Agreement ("**Agreement Price**"). The Agreement Price is inclusive of all Taxes.
	2. The Agreement Price will be payable monthly, within [●] calendar days of the Waste Holder raising the invoice for the same. The Waste Operator shall be entitled to raise the first invoice [●] calendar days after the finalization of the Designated Facility in accordance with clause 5.
	3. Any increase in Tax liability due to the Waste Operator’s failure to pay any Tax or on account of any misinterpretation of the Tax provisions by the Waste Operator shall accrue and be borne only to and by the Waste Operator.
	4. Waste Operator agrees that it will be solely responsible for performing all compliances and making payments of all Taxes, interest, penalties or any other tax/ duty/ amount/ charge/ liability which may become payable under this Agreement or otherwise arising either out of Applicable Laws either under the laws of its country, overseas or under the laws of [insert country] or because of a demand/ recovery initiated by any Government Authority under laws/ regulations applicable in [insert country] or overseas.
7. **DESIGNATED FACILITY**

* 1. The facility where the Waste Operator intents to dismantle, recycle, reclaim, or recover the Waste is defined as “Designated Facility”, with address: XXXXXX .
	2. A Designated Facility shall fail to qualify as such if it fails to be, at any time, in compliance with all Applicable Laws and all required registrations, permits, licenses, certificates or approvals required and/or commits a Prohibited Act. The Parties acknowledge that the Client shall have the right to revoke and withdraw its approval of a Designated Facility upon notice to Waste Operator if, in the Client’s reasonable judgment, the Designated Facility is not in compliance with all Applicable Laws or otherwise fails to operate in accordance with Good Operating Practice or commits and/or is in danger of committing a Prohibited Act. In the event that the Client elects to so revoke and withdraw its approval of a Designated Facility, the parties shall use their best efforts to identify a mutually agreeable alternate Designated Facility within [●] calendar days.
1. **INDEMNITY**
	1. **Indemnity**: Waste Operator agrees to indemnify, defend and hold harmless the Client, its directors, employees, officers, advisers and Affiliates and any person Controlling any of them and each of its or their officers, director, employees and agents from and against any claims, losses, costs or damages of whatever nature which arise in connection with or out of this Agreement, on account of:
	2. its representations and warranties are found to be misleading or untrue under the Agreement;
	3. its omissions or acts of fraud, negligence and/or wilful misconduct;
	4. failure to comply with its obligations under any Applicable Law(s), including its non-compliance of any consent, approval, permit or clearance granted to it by a Government Authority for fulfilling its obligations under this Agreement;
	5. its failure to comply with its obligations under this Agreement;
	6. failure to comply with any Confidential Information obligations
	7. if committing a Prohibited Act
	8. personal bodily injury or death of any person caused by, arising out of or in connection with its performance of this Agreement which is not attributable to the Client’s negligence or wilful misconduct;
	9. loss of or physical damage to the Client or any third party caused by, arising out of or in connection with the performance of this Agreement which is not attributable to the Client’s negligence or wilful misconduct; and/or
	10. the release of any toxic substances, hazardous substances and hazardous wastes in relation to the performing its obligations under this Agreement, which is in violation of Applicable Laws and which is not attributable to the Client’s negligence or wilful misconduct.

The Waste Operator agrees and acknowledges that it shall fully indemnify the Client for all amounts paid and/or costs incurred by the Client in accordance with this clause. The obligation to indemnify stipulated in this clause is not limited or reduced by any insurance, except to the extent that the proceeds of any such insurance are capable of being applied to reduce claims made against Client.

1. **INTELLECTUAL PROPERTY RIGHTS**
	1. The Waste Operator shall, where requested by the Client, undertake the destruction or wiping of data relating to any Waste, along with the individual material comprising such Waste, that may be collected by the Waste Operator for the purpose of this Agreement. If and when the Client requests, destruction of such products which contain data can be carried out to prevent reuse of such products/components. The Waste Operator shall deliver a written statement (certified as correct by a duly authorized officer of the Waste Operator) to the effect that such data relating to any Waste has been destroyed to the extent required by this Agreement.
	2. The Waste Operator acknowledges and agrees that all trademarks, copyright in and ownership of all Intellectual Property of any nature whatsoever made available to it by the Client and that which is conceived and/or created by the Waste Operator’s personnel and/or its agents/affiliated third Parties in connection with the Services vests and shall remain vested in the Client at all times.
	3. This Agreement does not constitute a license to or extend on the Waste Operator the right to use any of the Intellectual Property Rights and/or trademarks of the Client and/or any of its Affiliates at any time, and the Waste Operator and/or its personnel shall not, without the Client’s prior written consent, make use of any trademark, logo, or any other Intellectual Property Rights of any third-party or the Client, its customers or its Affiliates.
	4. **Infringement / Misappropriation**: The Waste Operator shall indemnify and hold harmless Client, its customers, Affiliates and their customers, officers, directors, and employees from and against all losses, claims, damages, liabilities, fines, penalties, and expenses (including reasonable attorneys' fees) that result from any and all claims of infringement by a third party of any patent or copyright, or misappropriation of any trademark or trade secret, or other Intellectual Property Rights.
	5. Without restricting generality of the foregoing clause 7.4, Waste Operator explicitly acknowledges and undertakes not to reuse or sell any of the Waste collected under this Agreement. In the event the Waste Operator uses and sells such Waste and as a result is subject to a third-party claim for infringement of Intellectual Property Rights, the Waste Operator shall indemnify and hold harmless the Client against losses or costs that arise out of such infringement.
	6. **Ownership of Intellectual Properties belonging to the Waste Operator**: The Waste Operator shall retain all rights, title and interests in relation to all Intellectual Property and any other design documents, drawings, materials, methodologies, processes, technical information, concepts or techniques created or developed by (or on behalf of) the Waste Operator in connection with the performance of the Services or its other obligations under this Agreement. Notwithstanding anything in this clause 7, the Waste Operator records its understanding that the Client is granted an irrevocable, worldwide, perpetual, non-exclusive licence to use the Intellectual Property, including but not limited to data and reports/ work products containing Intellectual Property, for any purpose including sharing such reports or data with third parties.
2. **REPRESENTATIONS AND WARRANTIES**
	1. The Waste Operator and the Client represent, warrant and undertake to each other that:
3. **Corporate Standing:** It is a company duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation, is qualified to do business in [insert country] to the extent of the Statement of Work under this Agreement and that the execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action and shall not violate any Applicable Law, any provision of its charter or bylaws or any indenture, agreement, or instrument to which it is a party or by which it or its property may be bound or affected. This Agreement constitutes a valid and binding agreement, enforceable against it in accordance with the terms thereof.
4. **No Violation of Law:** It is not in violation of any Applicable Law which for either an individual violation or for a number of violations in the aggregate would adversely affect its ability to perform its obligations under this Agreement.
5. **Litigations:** There are no actions, suits, proceedings or investigations that are: (i) pending against it or pending before any court or before any other judicial, quasi-judicial or other authority, the outcome of which individually or in the aggregate may result in a material adverse effect upon the performance of its obligations under this Agreement; or (ii) to the best of its knowledge, threatened against it in writing. The relevant Party shall inform the other Party within [●] calendar days, in case of any new litigation, legal proceedings/disputes initiated against it that materially impacts its ability to perform its obligations under this Agreement.
	1. Waste Operator warrants and covenants to the Client as follows:
6. It shall perform all Services to fulfil its obligations under this Agreement in compliance with Applicable Laws, directives, clearances and the requirements of any Government Authority, in accordance with all the Waste Holder’s on-site policies, and in a manner, which will not increase risk of harm to Waste Holder’s employees, Waste Holder's premises, the public health or the environment.
7. It shall not commingle or combine any Waste collected from the Holder Unit with the wastes of any other party without the Client's prior written approval. The Waste Operator shall not ship, transfer, or trans-ship any Waste collected from the Holder Unit to any location other than a Designated Facility.
8. Waste Operator understands the hazards which are presented to persons, property, and the environment in providing the Services under the Agreement, and Waste Operator has the requisite experience, facilities, equipment and qualified personnel, and the legal authority to perform all aspects of the Agreement.
9. It shall utilize the Waste for no other purpose than to dispose it in accordance with Good Operating Practice, Applicable Law and terms and conditions of this Agreement.
10. Waste Collector shall render the Services in a manner consistent with the level of care and skill ordinarily exercised by members of the waste removal/transport/disposal industry. All personnel to be assigned to the Client for the Services under this Agreement shall have the ability, expertise and the skill levels, as required by members of the waste removal/transport/disposal industry and are legally permitted to work in [insert country] and any other designated territory.
11. The Waste Operator shall discharge its obligations pursuant to this Agreement in a professional manner with all due skill, care and diligence including, but not limited to, Good Operating Practice.
12. The Waste Operator is not a party or subject to any understanding or agreement restricting its ability to enter into this Agreement and to perform all of its obligations and commitments under this Agreement.
13. The Waste Operator will co-operate with the Client and provide the Client with such information and assistance as the Client may reasonably require in order to enable or facilitate the Client duly and punctually to comply with its obligations under this Agreement.
14. Waste Operator has full capacity and authority and has obtained, and shall maintain in effect, all final, provisional, or interim registrations, permits, licenses, certificates or approvals required for performance of all Services to fulfil its obligations under the Agreement in compliance with any and all Applicable Laws. Waste Operator shall give Client prompt notice of the modification, revocation or cancellation of any registration permit, license, certificate or approval required for the performance of Services under the Agreement within [●] calendar days of such modification, revocation or cancellation;
15. Any transport or working vehicles used by Waste Operator to perform Services to fulfil its obligations under the Agreement shall be licensed and permitted as required by Applicable Laws and Good Operating Practice. Any Designated Facility which is owned or operated by Waste Collector has been issued all final, provisional, or interim permits, licenses, certificates, or approvals required for acceptance, storage, treatment, recycling, reclaiming or disposal of the Waste in compliance with Applicable Laws and Good Operating Practice.
16. The execution and delivery of this Agreement and the performance by the Waste Operator of its obligations herein shall not result in a breach of or constitute a default under any Agreement to which the Waste Operator is a party or by which it is bound or result in a breach of any order, judgment or decree of any court or Government Authority to which the Waste Operator is a party or by which it is bound.
17. No Services, equipment, materials or reports furnished by the Waste Operator hereunder will infringe upon or violate the rights of any third party, including, without limitation, rights of patent, trade secret, trademarks or copyright.
18. The Waste Operator shall keep full, proper and up to date books of account and records showing clearly all enquiries, transactions and proceedings relating to the parties’ relationship, and the Waste Operator will allow the Client’s authorized representative to have access to the books and records and make copies thereof as the Client may deem necessary.
19. The Waste Operator shall not during the Term and any extended period, if applicable, directly or indirectly, either for itself or for any other person, firm, company or entity, solicit the business of any person, firm, company or other entity which is a competitor of the Client and/or entice away any employee of the Client to be employed by the Waste Operator or such competitor, without the prior written consent of the Client. And provided that, the Waste Operator shall at all material times adhere to the terms of the non-disclosure agreement signed between the parties as well as the confidentiality provisions contained in this Agreement.
20. The Waste Operator shall not issue any press release, make or publish any public statement or other communication in each case relating to, connected with or arising out of this Agreement or the rendering of the Services nor use the Services provided to advertise any of its services or products, without the prior written consent of the Client.
21. The Waste Operator agrees and acknowledges that its legal status is that of an independent contractor and not that of an employee and that this Agreement shall not be construed as creating any relationship of agency, partnership or joint venture between the Parties. Accordingly, the Waste Operator has no authority to represent or act on behalf of or bind the Client at any time and the Waste Operator indemnifies the Client for any claim emanating therefrom.
22. All personnel engaged by the Waste Operator pursuant to this Agreement shall be employees of the Waste Operator, to the complete exclusion of the Client and the Client bears no responsibility with regards to the administration of such employees, including their employment, medical and other insurance, dismissal, leave administration, salary payments, settlement of severance and/or service compensation entitlements which may be due under the provisions of the law.
23. **LIMITATION OF LIABILITY**
	1. Notwithstanding anything to the contrary contained in this Agreement but save and except provided in this clause 9.1, the maximum overall liability of the Client towards the Waste Operator arising out of or in connection with this Agreement, whether in contract, tort, strict liability, indemnification or any other legal theory shall not exceed 100% of the total amounts payable by the Client to the Waste Operator under the Agreement.
24. **INSURANCE**
25. 1. Waste Operator shall at his own expense arrange to effect and maintain insurance policies (for the duration of this Agreement) all the insurance policies as described under this clause together with any other insurance policies which the Waste Operator requires in order to underwrite its obligations under the Agreement and in accordance with Applicable Law, with insurance agency approved by Government of [insert country] or any other governing body of the Government of [insert country] until the completion of the Services under this Agreement, against all risk in respect of the Waste Operator performing the Services to fulfil its obligations under the Agreement, for an insured amount of up to the maximum amount under the Waste Operator’s public liability insurance policy (including all Taxes), including insurance coverage of the Waste Operator personnel deputed and third-party risks.
	2. All such insurances shall be placed with reputable and substantial insurers, satisfactory to Client and shall be full and primary to Client’s insurance to the extent of the indemnities in Clause 6. Policy limits shall not be less than those indicated in this Clause 10 or as required by Applicable Law, whichever is greater.
	3. Any additional premium payable because of the utilisation of retrospective rating plans shall be for the sole account of Waste Operator.
	4. Waste Operator shall immediately notify insurers of and shall furnish all necessary information concerning any occurrence which may give rise to a claim under any such insurance policies in connection with the Agreement. Copies of all correspondence and documents sent to insurers, related to any such occurrence or any claim under such policies, shall be provided promptly to the Client.
	5. Workmen’s Compensation and Employers' Liability Insurance - All Waste Operator personnel shall be covered for statutory benefits and any damages or compensation payable in respect of accident or injury as set forth and required by Applicable Law in the area of operation or such other jurisdiction under which Waste Operator may become obligated to pay benefits. Voluntary coverage and other appropriate extensions of coverage shall be included as necessary. Employers' liability insurance, covering all Waste Operator personnel shall be provided with a minimum limit of United States dollars ten million (US$10,000,000.00) or equivalent per occurrence or series of occurrences onshore and United States dollars two million (US$2,000,000.00) per employee arising from the one event and shall include "an indemnity to principals" clause.
	6. Third Party Liability Insurance - Insurance coverage shall be provided for liability to any third party arising from the operations of AGENCY in connection with the performance or non-performance of the Services with a minimum limit of United States Dollars five million (US$5,000,000.00) or equivalent per occurrence or series of occurrences arising from the one event.
	7. Additional Contractor Insurance (where applicable for the Services)
26. Automobile Liability Insurance - Automobile liability insurance coverage shall also be provided for all owned, hired and non-owned vehicles with a minimum limit of United States dollars three million (US$3,000,000) for any one accident.
27. Travel Insurance **-** Travel Insurance shall be procured and maintained by Waste Operator for the duration of the Agreement with a minimum limit of United States dollars two million (US$2,000,000) any one accident, insuring against all risks, including but not limited to medical expenses, medical evacuation/repatriation and emergency evacuation.
28. Pollution and Spillage - Pollution and spillage insurance shall be provided with a minimum limit of United States dollars five million (US$5,000,000) or equivalent per occurrence or series of occurrences arising from the one event.
	1. Non-Performance of Waste Operator’s Insurance Companies - The insolvency, liquidation, bankruptcy, or failure of any insurance company providing insurance for Waste Operator or subcontractors, or failure of any such insurance company to pay claims accruing, shall not be considered a waiver of, nor shall it excuse Waste Operator from complying with, any of the provisions of the Agreement.
	2. Failure to Provide Required Insurance

If, in the Client’s reasonable opinion, it is unable to accept Waste Operator’s insurance companies or if any of the insurance policies are not procured or maintained pursuant to Clause 10.1, Client, at its option, may notify Waste Operator of such, whereupon it is agreed that Client, at its sole option, shall have the right to either:

* + - 1. purchase similar coverage, the cost thereof to be reimbursed by Waste Operator forthwith to Client or alternatively to be deducted by Client from any sum due or thereafter becoming due to Waste Operator from Client, at Client's option; or
			2. terminate the Agreement in accordance with Clause 11.
	1. Waiver of Subrogation

With the exception of the policies referred to in Clause 10.1.5, all insurance policies of Waste Operator with respect to the operations conducted under the Agreement shall be endorsed to waive all express or implied rights of subrogation against the Client but only to the extent of the liabilities assumed by Waste Operator under the Agreement.

* 1. Insurance Certificates

If requested by Client, Waste Operator shall furnish Client with certificates of insurance which provide sufficient information to verify that Waste Operator has complied with the insurance requirements of Clause 10.1. Such certificates shall indicate that Client will be given at least thirty (30) days advance written notice of any material change or cancellation of any policy.

* 1. Subcontractors’ Insurances

Waste Operator shall require any sub-contractors to obtain the insurance policies described in Clause 10.1, as well as any other insurance policies that Waste Operator considers necessary at appropriate levels as may be relevant to their work. Waste Operator shall use all reasonable endeavours to ensure that any such insurance policies include a waiver of subrogation rights in accordance with Clause 10.5. The fact that any Subcontractor obtains any of the foregoing insurance policies, or any other insurance policies that Waste Operator considers necessary, shall not itself relieve Waste Operator of its obligation to meet its other obligations under this Clause 10. To the extent that Waste Operator does not require, or Subcontractors do not obtain such insurance policies, including such waivers of subrogation, Waste Operator shall defend, indemnify and hold harmless Client Group from and against all claims, demands, losses, expenses and judgements to which such insurance policies (including such waivers) would have applied.

1. **CONFIDENTIAL INFORMATION**
	1. Waste Operator and its personnel recognize that, during their engagement by Client, they are likely to receive Confidential Information of the Client. Such Confidential Information includes all information relating to the past or present activities of Client and Client’s customers including their business, products, practices, customers and such other information, except such information as in or enters the public domain through no fault of the Waste Operator, or that was in possession of the Waste Operator prior to receipt under this Agreement (unless such information was issued or received subject to a confidentiality obligation).
	2. Waste Operator and its personnel agree to hold all such information in confidence for Client and not to disclose such information to any other person or organization without the prior written consent of Client. Waste Operator and its Personnel agree to protect such information against disclosure to others. The Waste Operator and its personnel shall protect and safeguard the Client’s Confidential Information against any unauthorised use, disclosure, report, transfer, or publication with at least the same degree of care as they would for their own confidential or proprietary information, but in no event use less than reasonable care.
	3. The Waste Operator and its personnel shall restrict disclosure of the Client’s Confidential Information to those of their directors, officers, employees, bankers, or attorneys who clearly have a need-to-know such proprietary information, and only to the extent of such need-to-know, and only in furtherance of the specific purposes of this Agreement.
	4. The Waste Operator and its personnel shall use the Client’s Confidential Information only for the purposes of entering into a business transaction with the Client, and not disclose such Confidential Information other than as set forth above unless the Client shall have expressly authorized in writing such disclosure. Additionally, the Waste Operator and its personnel shall not use the Client’s Confidential Information to compete or obtain any competitive or other advantage with respect to the Client.
	5. The Waste Operator shall return to the Client all Confidential Information upon written request or upon expiration or termination of this Agreement and shall certify in writing that it has done so.
	6. Confidential Information disclosed shall be and remain the property of the Client.
	7. This clause 11 shall be binding on both the Parties for a period of [●] years from the Effective Date and shall survive the termination of this Agreement. If there is any breach of confidentiality obligations by either Party, the other Party shall (without prejudice to the other remedies available under this Agreement) be entitled to seek specific performance and injunctive relief as remedies therefor.
2. **TERMINATION**
	1. Client may terminate all or part of the Agreement for its convenience by providing the Waste Operator with [●] calendar days written notice. If the Client terminates the Agreement for its convenience, the Waste Operator shall be entitled to payment pro-rata for satisfactory performance of the Services as provided under the Agreement prior to the date of cancellation plus any reasonable and documented expenses directly incurred by the Waste Operator in cancelling orders and work in progress but in no event shall this exceed the Agreement value.
	2. **Waste Operator Event of Default**
3. The occurrence of the following events shall be construed as a "**Waste Operator Event of Default**":
4. Waste Operator suffers an Insolvency Event;
5. Breach by the Waste Operator of its obligations under this Agreement;
6. Commission by the Waste Operator and/or its personnel of any Prohibited Act;
7. Failure of the Waste Operator to comply with Applicable Law, including registrations and license for transportation, dismantling and/or recalling of Waste;
8. Failure of the Waste Operator to obtain and maintain any and all applicable licenses and permits required by Applicable Law and any Governmental Authority in carrying out any of the Services under this Agreement; and
9. Waste Operator fails to perform its obligations under this Agreement in conformity with the Good Operating Practice.
10. If a Waste Operator Event of Default has occurred and the Client wishes to terminate this Agreement, it shall serve a termination notice of [●] calendar days on the Waste Operator specifying and giving reasonable details of the Waste Operator Event of Default which has occurred and state either:
11. in the case of a Waste Operator Event of Default under clause 11.2(a)(i), clause 11.2(a)(iii), clause 11.2(a)(iv) and clause 11.2(a)(v) above, this Agreement will terminate with immediate effect; or
12. in the case of a Waste Operator Event of Default under clause 11.2(a)(ii) and clause 11.2(a)(vi) above, that this Agreement will terminate on the day falling [●] calendar daysafter the date of the termination notice, unless the Waste Operator has remedied the Waste Operator Event of Default within such period to the reasonable satisfaction of the Client.
	1. Either Party is entitled to, at any time terminate this Agreement immediately without any notice in the event of any commission of a Prohibited Act, wilful misconduct, disciplinary issues, breach of trust on the part of the other Party or personnel representing such Party.
	2. Upon termination of the Agreement on full payment of the amounts claimed by either Party under this Agreement, neither Party shall have further obligations nor liabilities towards the other Party.
13. **GENERAL TERMS**
	1. **Subcontracting**: Waste Operator shall not assign, transfer or subcontract this Agreement in whole or in part, without the prior written consent of the Client. The Client is entitled to assign this Agreement to its Affiliates without consent of the Waste Operator.
	2. **Compliance with Laws**: Waste Operator represents and warrants that it is registered for providing with relevant Government Authorities for fulfilling its obligations under the Agreement and shall procure and maintain all requisite licenses. The Waste Operator shall ensure its personnel, employees, contractors, consultants and subcontractors comply at their own expense with all Applicable Laws, to the extent that any of the foregoing have a direct or indirect implication towards the performance of the Services to Client.
	3. **Entire Agreement**: The provisions of this Agreement, and all Statement of Work issued pursuant to this Agreement, shall supersede all prior and current oral and written communications, agreements, and understandings of the Parties with respect to the subject matter of this Agreement and shall constitute the entire agreement between the Parties. This Agreement shall not be modified or rescinded, except in writing signed by both Parties.

* 1. **Identification Credentials**: The Client may, at its discretion, require the Waste Operator's employees to exhibit identification credentials, which the Client may issue, in order to gain access to Client’s premises for the performance of the Statement of Work. If, for any reason, any of Waste Operator's employees are no longer performing such services, Waste Operator shall immediately inform Client's representative and promptly deliver the identification credentials involved.
	2. **Independent Contractor/No Agency**: The Parties shall act as independent contractors in the performance of this Agreement, and neither Party shall act as agent for or partner of the other Party for any purpose under this Agreement. The Personnel and employees of Waste Operator shall not be deemed to be the employees of Client. All persons deputed by Waste Operator shall be considered solely Waste Operator's employees, agents, or subcontractors. Further, nothing in this Agreement shall be construed as creating any employment relationship, or fiduciary relationship between the Parties, nor shall either party have authority to contract for or bind the other party in any manner. In addition, nothing contained in this Agreement shall be construed so as to give either Party the power to direct and control the day-to-day activities of the other, or allow the Waste Operator and its personnel to create or assume any obligation on behalf of the Client for any purpose whatsoever. The Waste Operator hereby indemnifies the Client from any losses arising therefrom.

* 1. **Notices and Representatives**: Any notice or demand which under the terms of this Agreement or under any statute must or may be given or made by Waste Operator or Client shall be in writing and shall be given or made by confirmed email, or similar communication or by certified or registered mail addressed to the respective parties as follows:

|  |  |
| --- | --- |
| All Notices: To Client | All Notices: To Waste Operator |
| Office Address.  | Office Address.  |
| Attention: Email:  | Attention: Email: |

 Any legal process to be served on any of the Parties may be served on it at the address specified for it in this clause above.

Any notice or other communication to be given to any of the Parties in terms of this Agreement is valid and effective only if it is given in writing, provided that any notice given by email is regarded for this purpose as having been given in writing.

A notice to any Party which is sent by registered post in a correctly addressed envelope to the address specified for it in this clause 13.6 is deemed to have been received within [●] Business Days from the date it was posted, or which is delivered to the Party by hand at that address is deemed to have been received on the day of delivery, provided it was delivered to a responsible person during ordinary business hours.

A notice by email to a Party at the email address specified for it in this clause 13.6 is deemed to have been received upon transmission if it is transmitted during normal business hours of the receiving Party or within four (4) hours of the beginning of the next business day at the destination after it is transmitted, if it is transmitted outside those business hours.

A notice to any Party which is sent by overnight courier in a correctly addressed envelope to the address specified for it in this clause 13.6 is deemed to have been received on the Business Day following the date it is sent.

Notwithstanding anything to the contrary in this clause 13.6, a written notice or other communication actually received by any Party is adequate written notice or communication to it notwithstanding that the notice was not sent to or delivered at its chosen address.

Any Party may by written notice to the other Parties change its address or email address for the purposes of clause 13.6 to any other address (other than a post office box number) provided that the change will become effective on the day following receipt of the notice.

* 1. **Settlement of Disputes and Arbitration**: The Parties shall attempt in good faith to resolve any disputes, differences or claims arising out of or relating to this Agreement promptly by negotiation among the Parties, within [●] calendar days of referring such a dispute for resolution. Subject to the foregoing, any dispute or difference or claim arising in connection with this Agreement shall be resolved by reference to arbitration by a sole arbitrator appointed by the Client, at its sole discretion. Such arbitration shall be conducted in [insert city, country] in accordance with the Rules of Arbitration subject to and in accordance with the provisions of the [insert Arbitration Act] or any modifications or substitutes thereof. The language of arbitration shall be English. To the extent permissible by the law, the award of the arbitrator shall be final and binding on the parties. Nothing in this clause shall preclude Parties from seeking temporary relief in any court of competent jurisdiction which clause shall apply at all times.
	2. **Governing Law**: This Agreement shall be governed and interpreted in accordance with the laws of [insert country]. The applicable courts at [insert city, country] shall have exclusive jurisdiction over any matter in respect of this Agreement.
	3. Waste Operator agrees to comply with and shall ensure that all personnel participating in the provision of the Services comply with legal and regulatory requirements, and instructions issued by Client and the Waste Holder’s code of conduct.
	4. **Severability**: If any of the provisions of this Agreement shall be held invalid or unenforceable by law or a court of competent jurisdiction, such invalidity or unenforceability shall not invalidate or render unenforceable this entire Agreement, but rather this entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision(s) and the rights and obligations of the parties shall be construed and enforced accordingly.
	5. **Survival of Obligation**: The obligations of the parties under this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement shall survive termination, cancellation or expiration of this Agreement.
	6. **Publicity & Advertising**: The Client upholds its right to publicize the nature of the Services covered in this Agreement. The Waste Operator shall not undertake or carry out any publicity or advertising of the nature of the Services being carried out under this Agreement in or through any medium or channels without the prior written consent of the Client. It is hereby acknowledged by the Client that the nature of the services rendered by the Waste Operator are open to inspection by public authorities and environment stakeholders and that learning, and training is provided at the Waste Operator’s premises, which activities may inadvertently lead to publicity.
1. **BUSINESS ETHICS AND COMPLIANCE**
	1. Waste Operator shall, and undertakes to procure that the other members of Waste Operator shall, perform the work and any matters resulting from it in a manner which is consistent with Client's Code of Business Conduct, Code of Ethics, or similar policies, including without limitation those relating to discrimination against employees, anti-money laundering, bribery of domestic and foreign public officials, protection of international human rights and environmental responsibility.
	2. Waste Operator shall, and undertakes to procure that the other members of Waste Operator shall, use all reasonable endeavours to perform work and any matters resulting from it in a manner which is consistent with such other Client policies, procedures and guidelines which may become applicable to the Client or the work and are notified in writing by the Client to Waste Operator from time to time.
	3. Waste Operator and its personnel and Affiliates represents and warrants that it has conducted and shall at all times conduct its business in accordance with the highest ethical standards and avoid conflict of interest in the provision of the Services to the Client. In conjunction with the performance of its obligations herein, the Waste Operator and its Affiliates shall comply with and cause its assigns and their respective employees, officers, agents and representatives to comply with all applicable laws, statutes, regulations and other requirements prohibiting corruption, bribery, kick-backs or similar unethical practices.
	4. Waste Operator shall, and undertakes to use its reasonable endeavours to procure that other members of Waste Operator shall, promptly and at no cost to the Client, respond in reasonable detail to any request for information from the Client in connection with any obligation, representation, warranty, undertaking or covenant contained in this Clause 14, furnish documentary support for such response upon request from the Client, and promptly but in any case within forty eight (48) hours inform the Client on becoming aware of any facts, circumstances or allegations that constitute or might constitute breach of any obligation, representation, warranty, undertaking or covenant contained in this Clause 14. And shall cooperate with the Client’s subsequent investigation of such matter.
	5. Additionally, the Waste Operator will immediately report to the Client any requests made for favours, gratuities, gifts, payments, or anything of value by employees, agents or other representatives of the Client or any suspected money laundering or any employment relationships or business transactions between the Parties and/or their employees, agents or other representatives which might create any conflict of interest, and will cooperate with respect to any inquiry or investigation being conducted related to such activities or alleged activities.
	6. Without prejudice to any other express remedies elsewhere in the Agreement or any remedies available at law or in equity, in the event of a breach of Clause 14 by Waste Operator or any member of Waste Operator, Client may take whatever action it deems appropriate including terminating the Agreement in whole or in part with immediate effect and without further liability to the Client and the Waste Operator shall indemnify the Client and/or its Affiliates against costs, claims and liabilities arising as a result of the breach.
	7. Waste Operator shall establish and maintain all proper records (including accounting records) required by any anti-corruption laws and regulations and anti-money laundering laws and regulations and shall make such records available to Client if requested to do so.
	8. Waste Operator undertakes to make all Waste Operator personnel aware of the provisions of this Clause 14 and any policies and guidelines provided to Waste Operator pursuant to it. Waste Operator shall place requirements similar to those in this Clause 14 on all members of Waste Operator, its Affiliates, suppliers and subcontractors who are involved in connection with the Agreement and any matters resulting from it.
2. **ENVIRONMENT, HEALTH & SAFETY**
	1. Waste Operator shall comply with and shall procure that all its personnel, Affiliates, suppliers and subcontractors are aware of and comply with all Applicable Law affecting the environment, health and safety ("EHS") in respect of the provision of the Services. In addition to the foregoing, Waste Operator shall comply with and shall procure that all its personnel, Affiliates, suppliers and subcontractors are aware of and comply with the Client's EHS policy.

**IN WITNESS WHEREOF THIS** Agreement is entered into in originals the day, month and year first above written.

On behalf of [insert company name]

Name: [●] Name: [●]

Designation: [●] Designation: [●]

Date: [●] Date: [●]

**Annex 1**

**STATEMENT OF WORK (SOW)**

**The Client shall:**

1. Identify the Holder Unit(s) for collection of the Waste once sufficient volumes (to be agreed mutually between two parties) have been generated.
2. Supervise the collection of the Waste and its weight.

**The Waste Operator shall:**

1. Provide copy of necessary licences and certification for the safe transport and dismantling/treatment/recycling of the Waste including necessary approvals required under Applicable Law.
2. Ensure transportation, dismantling and treatment of the Waste will be carried out under Good Operating Practices and dealt with in a, safe, ethical and environmentally sustainable manner, in accordance with Applicable Law.
3. Handle all Waste collected in a safe and appropriate manner with necessary precautionary measures in place, and in line with Applicable Law.
4. Upon intimation from the Client, the Waste Operator shall, within [●] calendar days, arrange for collection of waste from the Holder Unit(s).
5. Transport the Waste from Holder Unit(s) to the Designated Facility.
6. Carry out inventory, segregation, de-pollution and treatment, including manual dismantling/disassembly or any other activity deemed necessary to ensure proper handling according to Good Operating Practice and Applicable Law.
7. All Waste shall enter the Designated Facility, where it will be dismantled according to Good Operating Practice and Applicable Law.
8. Waste fractions dismantled will be segregated by type (e.g. plastic, metal, cables, etc.) in accordance with Applicable Law.
9. Provide volumes and/or weights of various fractions from the dismantling exercise.
10. For fractions such as plastic and metals, the Waste Operator can/will process the fractions for further downstream treatment with approved and certified downstream vendors in compliance with Applicable Laws under its own responsibility.
11. Comply with all Applicable Law for transportation and disposal of the Waste.
12. For the fractions such as batteries and PV panels, the Waste Operator will re-direct these fractions to other approved downstream partners as directed by the Client.
13. Report treatment performances using the dedicated tool (Mass Balance Reporter)
14. Issue a safe disposal certificate as prescribed under the best practices within 15 (fifteen) calendar days from receipt of such request and/or within the treatment/recycling being undertaken, whichever is later.

Annex 2

**PRICING STRUCTURE**

***[Details to be inserted as appropriate.]***

**Financial Exchange:**

The remuneration for activities carried out by the waste operator is detailed in the table below.

|  |  |  |
| --- | --- | --- |
| Type of service | Financial compensation | Notes |
| Collection |  |  |
| Transportation |  |  |
| Treatment |  |  |

**Annex 3**

**DETAILS OF HOLDER UNIT**

[●]

***[Details to be inserted as appropriate.]***

**Annex 4**

**FORMAT OF REPORTING**

[●]

***[Details to be inserted as appropriate.]***