

RESOLUTION

VILLAGE OF GILBERTS

(Authorizing an agreement between the Village of Gilberts and Synagro for Biosolids Removal)

Be it Resolved by the President and Board of Trustees of the Village of Gilberts, Kane County, Illinois that:

Section 1:

The Village of Gilberts hereby authorizes the Village President and Village Clerk to execute a service agreement between the Village of Gilberts and Synagro for Biosolids Removal and such documents as are necessary and convenient to effectuate as attached hereto and made a part hereof as Exhibit A as approved.

Section 2:

To the extent any competitive bidding requirements apply to the service agreement between the Village of Gilberts and Synagro for Biosolids Removal, they are hereby waived pursuant to Section 8-9-1 of the Illinois Municipal Code (65 ILCS 5/8-9-1).

Section 3:

This resolution shall be in full force and in effect from and after its passage and approval pursuant to law.

Passed this 20<sup>th</sup> day of June, 2017 by a roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett			✓	
Trustee Jeanne Allen	✓			
Trustee Nancy Farrell	✓			
Trustee Lou Hacker	✓			
Trustee Elissa Kojzarek	✓			
Trustee Guy Zambetti	✓			
President Rick Zirk				

APPROVED THIS 20<sup>th</sup> DAY OF JUNE, 2017

*[Handwritten Signature]*

Village President, Rick Zirk



ATTEST:



Village Clerk, Debra Meadows

Published:

01/21/2017

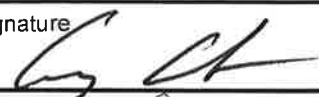
**EXHIBIT A**

**4838-8086-6377, v. 1**



# Materials Management Agreement

This Agreement made and entered into as of this 20<sup>th</sup> day of June, 2017 by and between Contractor and Customer.

<b>C U S T O M E R</b>	Customer Legal Name			
	Village of Gilberts, IL			
	Street Address			
	281 Raymond Rd			
	City / Town	County	State	Zip Code
	Gilberts		IL	60136
<b>C O N T R A C T O R</b>	Synagro Legal Name			
	Synagro Central, LLC			
	Street Address			
	435 Williams Court			
	City / Town	State	Zip Code	
	Baltimore	MD	21220	
<b>T E R M</b>	Commencement Date June 1, 2017		Expiration Date May 31, 2020	
	The "Term" of this Agreement shall be from the Commencement Date up to and including the Expiration Date. This Agreement may be extended upon the mutual consent of the Parties. Either Party may terminate this Agreement, with or without cause, upon thirty (30) days prior written notice to the other party. If Contractor provides Contractor Services to Customer outside of the Term without another written agreement, then such services shall be deemed provided pursuant to the terms of this Agreement (other than the Term) and Customer's request for or acceptance of Contractor Services shall be deemed consent to the terms of this Agreement. No such provision of services by Contractor shall be deemed an agreement to provide any further services or extend the term of this contract for additional periods.			
<b>B I L L I N G</b>	Customer Contact Name		Telephone #	
	Village of Gilberts		(847)428-4167	
	Street Number / P.O. Box		Laura Erickson- Billing	
	Address 87 Galligan Rd		Contact Person John Castillo	
			E-mail Address jcastillo@villageofgilberts.cm	
	City / State	Zip Code		
	Gilberts, IL	60136		
<b>S I G N A T U R E S</b>	FOR CUSTOMER:		Date	
	Signature 		6/20/2017	
	Name and Title George Sakas, Village Administrator			
	FOR CONTRACTOR:		Date	
	Signature			
	Name and Title			

## SCOPE OF SERVICES AND PRICING APPENDIX

### Scope of Service.

Synagro to provide biosolids Management Services that includes removal, transportation and land application or other beneficial reuse of Customers biosolids which constitute primarily liquid (2%-4% solids) generated during treatment of the wastewater by Gilberts, IL WWTP.

Contractor shall provide the necessary supervision, labor and equipment to load Customer Materials into transport vehicles and to transport the Customer Materials to suitable local farmland in accordance with laws.

Contractor shall haul Customer materials with available farmland weather permitting. This is typically between June 15 and August 30, each year.

Contractor shall provide to the Customer a copy of a load sheet which details the following; date, time loaded, truck number, driver name, cubic yards loaded on the vehicle, and farm destination. The quantity of material loaded on a vehicle shall be mutually agreed to by Contractor and the Customer.

Contractor shall provide labor and land application equipment to properly apply the Customer Materials to local suitable application sites at agronomic rates in accordance with laws.

Contractor shall complete any required federal or state biosolids disposal sheets as required by Customers Residuals Management Plan ("RMP").

### Customer Materials.

Customer Materials shall consist of the following:

Customer expects to provide the contractor with approximately 600,000 gallons of high quality, stabilized biosolids suitable for agricultural/ beneficial use under applicable federal, state and local laws & Regulations.

The Biosolids are expected to typically have a dry solids content of 2-4% solids

Customer shall abide by and have definition and responsibility as preparer of the biosolids under the requirements of the USEPA 40 CFR part 503.

**Method of Delivery of Customer Materials.** The Customer Material shall be delivered to Contractor in the following manner: Synagro will draw sludge from Customers sludge holding tank and load onto tankers for transportation to land.

**"Customer Facility(ies) " shall mean the following locations where Customer Material(s) are generated or stored:**

1. The Village of Gilberts, WWTP located at 281 Raymond Rd, Gilberts, IL

**Contractor right to refuse loads.** If trucks or containers are loaded by Customer or its agents, Contractor has the right to refuse loads that are not within legal weight restrictions, are defective, or are not filled to mutually agreed-upon minimums or maximums.

**PRICE**

The Agreement Price(s) shall be as follows:

RATE	QUANTITY	UNIT	SERVICE
\$0.050	600,000	Gallon	Transport liquid biosolids from Customer Facility to permitted land and land-apply liquid biosolids

**CPI. All Agreement Prices shall be adjusted as follows:**

All Agreement Prices shall be adjusted annually beginning on June 1, 2018 based on the Non-Seasonally Adjusted Consumer Price Index established by the United States Department of Commerce, Bureau of Labor Statistics, for Chicago, IL with the CPI immediately preceding the Commencement Date being the base index. Said adjustment shall apply to all fees contained herein, and shall be based on the following formula:

$$\text{New Price} = (\text{Price Adjustment}) \times \text{First Year Agreement Price}$$

$$\text{Price Adjustment} = 1 + \left( \frac{\text{Current CPI} - \text{Base CPI}}{\text{Base CPI}} \right)$$

CPI = \_\_\_\_\_.

Base CPI = April 2017.

Once the CPI is available, the price adjustment shall take effect retroactively, where applicable, as of the dates specified above for price adjustments. No New Price shall ever be lower than any existing current Agreement Price in effect immediately before the annual adjustment.

**Fuel Surcharge Adjustment**

All Agreement Prices shall be adjusted monthly for a fuel surcharge ("Fuel Surcharge Adjustment") to reflect any increased change in diesel fuel prices, in accordance with the table below, if the cost of retail on-highway diesel fuel (Department of Energy, Energy Information Administration Midwest is at, or exceeds, \$3.50 per gallon (Base Price).

The Fuel Surcharge Adjustment will be based on the following chart and the Retail On-Highway Diesel Price – Midwest as published by the U.S. Department of Energy's Energy Information Administration for Midwest and will be applied to the then current fixed or unit fee, as applicable. The Fuel Surcharge Adjustment will be no more than once a calendar month beginning with the second calendar month following the Commencement of Services and shall be adjusted as of the first day of each month. Fuel Surcharge Adjustment will then be applied as follows:

Diesel Price \$/Gallon - Note <sup>1</sup>	Fuel Surcharge Adjustment %
< \$3.50	None
Base Price to Base Price plus \$3.51 - \$3.549	0.5 %
\$3.55 - \$3.599	1.0 %
\$3.60 - \$3.649	1.5 %

For each \$0.05/gallon increase thereafter add 0.5%

Note 1 - Fuel Rate based on DOE EIA monthly retail on-highway diesel prices (Midwest)



## GENERAL TERMS AND CONDITIONS

1. **Definitions.** As used in this Agreement:

A. "Affiliate" shall mean any Person which, directly or indirectly, owns or controls, or is under common ownership or control with, or is owned or controlled by, such Person.

B. "Agreement" shall mean this agreement, and each and every exhibit, appendix and schedule attached hereto, and by reference made part of this Agreement.

C. "Agreement Price(s)" shall mean any one or, collectively, all the prices to be paid by the Customer to Contractor for Contractor Services.

D. "Authorizations" means all authorizations, permits, applications, notices of intent, registrations, variances, and exemptions required for the removal, transportation and land application of Customer Materials in compliance with all Laws.

E. Agreement shall consist of the following documents which Customer acknowledges receiving copies of:

1. The Agreement
2. Scope of Service and Price Appendix
3. General Terms and Conditions

F. "Contractor Facility" shall mean a facility operated or controlled by Contractor or an Affiliate of Contractor.

G. "Contractor Services" shall be those services described in Scope of Service and Price Appendix.

H. "Customer" shall mean the entity identified as Customer in the first paragraph of this Agreement and its permitted successors and assigns.

I. "Customer Material(s)" shall mean the materials generated by or stored at the Customer's Facility which are described in Scope of Service and Price Appendix, Section A. 2. and meet(s) the requirements set forth in Appendix 2.

J. "Governmental Authority" means any governmental authority including the United States of America and any State, local authority, political subdivision, agency, department, commission, board, bureau, court, tribunal having jurisdiction over this Agreement, Customer Material(s), or Contractor, Customer, or Customer Facility.

K. "Hazardous Materials" means any "petroleum," "oil," "hazardous waste," "hazardous substance," "toxic substance," and "extremely hazardous substance" as such terms are defined, listed, or regulated under Laws.

L. "Intended Use" shall mean any use, placement or disposal of Customer Materials pursuant to this Agreement including by example, land application, composting, deposit in landfill, or incineration.

M. "Laws" means any Authorization and any applicable federal, state, or local law, rule, regulation, ordinance, order, decision, principle of common law, consent decree or order, of any Governmental Authority, now or hereafter in effect.

N. "Non-Conforming Material(s)" shall mean material(s) which (i) fail(s) to meet the description or characteristics described in Appendices 1 and/or 2, or (ii) are Hazardous Materials, or (iii) contain a concentration of polychlorinated biphenyls equal to or greater than 50 milligrams per kilogram of total solids (on a dry weight basis).

O. "Party" shall mean either Customer or Contractor; "Parties" shall mean Customer and Contractor.

P. "Person" shall mean any partnership, corporation, Governmental Authority, trust or legal entity, as well as a natural person.

Q. "Term" shall mean the term of this Agreement including any extensions, as provided for in the Agreement.

2. **Services.** Contractor shall provide Contractor Services to Customer.

3. **Price and Adjustments.**

A. The Agreement Price(s) for Contractor Services is set forth in Scope of Services and Price.

B. Contractor will have no duty to handle Non-Conforming Materials unless Customer and Contractor mutually agree to terms including cost for the handling of such Non-Conforming Materials on a case-by-case basis. If Contractor discovers material is Non-Conforming after it takes possession, then Customer shall reimburse all costs and expenses of Contractor in handling such Non-Conforming

Material until Customer arranges for removal and transportation of such Non-Conforming Material for appropriate processing and disposal, plus 10% of such costs and expenses.

4. **Ownership of Materials.** Customer shall retain all title to and ownership of the Customer Material and Non-Conforming Materials.

5. **Rejection or Revocation of Acceptance of Materials.**

A. Contractor shall have the right to reject any Non-Conforming Material prior to taking possession or revoking its acceptance after taking possession of any Non-Conforming Material, provided that Contractor notifies Customer by telephone or in writing of such rejection of Non-Conforming Materials promptly upon Contractor's discovery thereof. Any such notice of rejection not given initially in writing shall be promptly confirmed in writing to Customer. Contractor shall provide Customer with the documentation used to identify Customer Materials as Non-Conforming, and Customer shall have the right to re-test the Customer Materials.

B. Within twenty-four (24) hours after receipt of notice of rejection of Non-Conforming Material (or such longer period provided that Customer is acting with due diligence), Customer shall in accordance with Laws, arrange for and pay all costs associated with the testing, removal and transport of such Non-Conforming Material for appropriate processing and disposal. If Customer fails to remove Non-Conforming Material(s) within 10 business days of the date Customer is notified by Contractor, then Contractor shall have the right, but not the obligation, to remove, store, handle, transport, store, process and dispose of Non-Conforming Materials and Customer shall reimburse Contractor for all costs and expenses associated therewith, plus 10% of such costs and expenses.

C. Nothing in this section shall be construed to limit Customer's obligation to indemnify Contractor.

6. **Change in Conditions Affecting Quality of Materials.**

Customer shall immediately notify Contractor of changes or irregularities related to the creation, processing or conditions that would reasonably be expected to affect the quality, character or composition of Customer Materials. Customer shall promptly furnish to Contractor any information regarding known or suspected changes in the composition or characteristics of the Customer Materials.

7. **Record Keeping.** Contractor shall maintain records of the Contractor Services to the extent Contractor is required by Law, and further, shall maintain records to the extent specifically set forth in Scope of Services and Price. Customer shall maintain records to the extent Customer is required by Law. Customer shall keep and maintain records showing all data necessary for computation of the invoiced amounts during the term of the Agreement and for eighteen (18) months after the termination of the Agreement. Customer shall, upon reasonable notice from Contractor, provide Contractor with copies of all records reasonably necessary for Contractor to compute the amounts to be invoiced.

8. **Terms of Payment.** Customer shall pay Contractor the full amount due under any invoice within thirty (30) days of the date of the invoice. Any invoice amount not paid in full within thirty (30) days of the date of the invoice shall bear interest in accordance with the Local Government Prompt Payment Act (50 ILCS 505/1 et seq.)

9. **Default Termination.**

A. In the event a Party seeks to terminate this Agreement because the other Party has failed to perform one or more of its material obligations hereunder, then the non-defaulting Party shall give a default notice to the defaulting party. Such default notice shall list with reasonable detail the nature of the default. Unless otherwise stated in Subsection B below, a defaulting Party shall have a right to cure a default within 10 days. If the defaulting Party fails to cure the default within 10 days after the receipt of the default notice, then this Agreement may be terminated by the non-defaulting party by delivery of notice of termination, effective on the termination date stated in such termination notice.

B. Notwithstanding any provision herein to the contrary, Contractor may immediately terminate this Agreement upon notice to Customer if:

Customer fails to make full payment of any invoice in accordance with section 8 of this Agreement (i) there is a change in or to the interpretation of any Laws which increases Contractor's risk or cost, or which would serve to delay Contractor's performance of Contractor Services;



- (ii) Contractor reasonably determines that performing Contractor Services will cause personal injury, or damage to a Party's facilities, equipment or operation, or will cause Contractor to be in violation of Laws, or will produce or cause to be produced a process byproduct that is classified as Hazardous Material(s); or
- (iii) Customer fails to provide the NANI or NANI Equivalent as provided for in Section 29.A.4.b. of this Agreement.

#### 10. Indemnification.

**A.** Contractor shall defend, indemnify and hold harmless Customer, its directors, officers and agents from and against any and all claims, suits, actions, proceedings, liabilities, losses, damages, fines, penalties and expenses of every character whatsoever (including, but not limited to, liability for pollution, environmental or natural resource damage or restoration, nuisance, bodily injury, sickness and/or disease, including death, and loss of or damage to property), to the extent proximately caused by Contractor's negligence or breach of this Agreement. If any such suits, actions or proceedings are threatened or commenced, Customer shall promptly notify Contractor.

**B.** Customer shall defend, indemnify and hold harmless Contractor, its partners, directors, officers, employees and agents from and against any and all claims, suits, actions, proceedings, liabilities, losses, damages, fines, penalties and expense of every character whatsoever (including, but not limited to, liability for pollution, environmental or natural resource damage or restoration, nuisance, bodily injury, sickness and/or disease, including death, and loss of or damage to property), to the extent they arise out of: (i) Customer's failure to comply with any of its obligations under this Agreement; (ii) Customer's delivery of Non-Conforming Material to Contractor; (iii) Contractor's acceptance, handling, use or application of Non-Conforming Material; and (iv) any other negligent act or omission or willful misconduct by Customer. If any such suits, actions or proceedings are threatened or commenced, Contractor shall promptly notify Customer.

**11. Access.** Customer shall provide Contractor access to Customer Facility(ies) as and when requested by Contractor in order to provide Contractor Services. Customer shall bear all costs or fees associated with providing access to Contractor.

**12. Compliance with Laws.** Unless otherwise specifically provided in this Agreement, Contractor shall comply with Laws directly regulating Contractor Services and Customer shall comply with all Laws imposed upon Customer.

#### 13. Physical Damage Responsibility; Insurance.

**A.** Contractor shall provide workers compensation insurance for all its employees providing services under this Agreement in accordance with applicable law.

**B.** Contractor shall provide commercial general liability insurance to cover the liabilities of Contractor arising out of the Contractor Services with limits of one million dollars (\$1,000,000) for each claim, one million dollars (\$1,000,000) products aggregate and two million dollars (\$2,000,000) general aggregate. Such insurance shall provide that coverage shall not be canceled without thirty (30) days prior notice to Contractor and Customer, or ten (10) days' notice in the event that such coverage is cancelled for non-payment. Contractor shall provide evidence of said insurance, in the form of an insurance certificate, within thirty (30) days from the date hereof. Said certificate shall name Customer as an additional insured.

**C.** Contractor shall provide general liability and property damage insurance to cover the liabilities of Contractor arising out of the use of vehicles in the performance of Contractor Services with a combined single limit of one million dollars (\$1,000,000), with an umbrella policy of five million dollars (\$5,000,000).

**14. Force Majeure.** Neither Party shall be liable to the other Party for breach or for failure or delay in the performance of its obligations hereunder caused by any act or occurrence beyond its reasonable control, including, but not limited to: fires; floods; strikes (except any strikes involving a Party's personnel); a change in Federal, State, or local law or ordinance; orders or judgments of any Federal, State or local court, administrative agency or governmental body; change in permit conditions or requirements; accidents; extreme weather

conditions including, for example, hurricanes, tornadoes, unusually high amounts of precipitation, unusual extremes of temperature or wind, or unusually extended periods of adverse weather conditions; acts of war, aggression or terrorism (foreign or domestic); equipment failure (other than due to the inadequate maintenance thereof); and acts of God. It is specifically understood that, without limitation, none of the following acts, events or circumstances shall constitute an act or occurrence beyond a Party's reasonable control: (i) reasonably anticipated weather conditions normal for the region in which the work is performed or (ii) any failure to pay any sums in accordance with the terms of this Agreement. Whenever the provisions of this Section are believed to apply, the Party relying thereon shall give prompt notice to the other Party of the circumstances, the basis for applicability of this Section and the time required to cure such breach or delay and Contractor and Customer shall use reasonable best efforts to agree on appropriate mitigating actions under the circumstances.

**15. Representation of Authority.** Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver and perform this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

**16. Survival of Obligations.** Notwithstanding the expiration or sooner termination of this Agreement, any duty or obligation which has been incurred and which has not been fully observed, performed and/or discharged, and any right, conditional or unconditional, which has been created and has not been fully enjoyed, enforced and/or satisfied, shall survive such expiration or termination until such duty or obligation has been fully observed, performed and/or discharged and such right has been fully enjoyed, enforced and/or satisfied.

**17. Entire Agreement.** This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and verbal, between the Parties with respect to the subject matter hereof.

**18. Amendments.** This Agreement may be amended from time to time only by an instrument in writing signed by the Parties to this Agreement.

**19. Counterparts.** This Agreement may be executed in counterparts, which together shall constitute one and the same contract. The Parties may execute more than one copy of this Agreement, each of which shall constitute an original.

**20. Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties thereto and their successors and permitted assigns. The Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

**21. Modification.** This Agreement may not be amended, altered or modified except in writing signed by the Parties hereto. No waiver by either Party of any breach by the other Party of any provisions of this Agreement shall be construed as a waiver of any subsequent breach, whether of the same or of any different provision of this Agreement. No course of conduct or series of dealings shall constitute a waiver hereunder.

**22. Governing Law, Venue Selection.** This Agreement shall be governed by and construed under the laws of the State of Illinois. Venue for any dispute arising under this Agreement shall be in the Circuit Court of Kane County, Illinois.

**23. No Third Party Liability.** Neither this Agreement nor any Subcontract is intended to give rise to or recognize any third party beneficiary to this Agreement.

**24. Partial Invalidity.** If any provision of this Agreement is determined to be invalid, illegal or unenforceable for any reason, that provision shall be deleted from this Agreement and such deletion shall in no way affect, impair, or invalidate any other provision of this Agreement, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

**25. Consent to Breach Not Waiver.** No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent is in writing and signed by the Party claimed to have waived

or consented. No consent by any Party to, or waiver of, a breach by the other Party shall constitute consent to, waiver of, or excuse of any other different or subsequent breach.

**26. Notice.** Except as otherwise specifically provided in this Agreement, all notices must be given in writing sent by recognized overnight courier or registered or certified US mail, postage prepaid, return receipt requested, addressed listed on the first page and with an additional copy of any notice to Contractor sent to:

Synagro Central, LLC.  
435 Williams Court, Suite 100  
Baltimore, MD 21220  
Attn: Legal Manager

Village of Gilberts  
Attn: William Beith  
87 Galligan Road  
Gilberts, IL 60136

Notice shall be sent to the referenced persons and addresses unless the Parties are otherwise notified in writing of a change in the name or address of the person to be notified.

**27. Consequential Damages.** In no event shall Contractor, its affiliated corporations and Affiliates or its and their directors, officers, employees or any of its subcontractors be liable for any incidental, indirect, special, punitive, economic or consequential damages, suffered or incurred by Customer or any of its agents or contractors as a result of Contractor's performance or non-performance of services pursuant to this Agreement.

**28. Drafting Responsibility.** Neither Contractor nor Customer shall be considered the drafter of this Agreement, and any ambiguities herein shall not be construed against either Contractor or Customer, both having participated in the drafting of this Agreement.

**29. Customer Materials.** Customer represents and warrants the following with respect to the quality of Customer Materials:

**A. Biosolids.**

1. Hazardous Materials. Customer will not provide Hazardous Materials to Contractor.

2. Polychlorinated Biphenyls. Customer Materials shall not contain a concentration of polychlorinated biphenyls (PCB's) equal to or greater than 50 milligrams per kilogram (dry weight basis), nor shall Customer Materials violate more stringent state or local standards, where applicable.

3. Suitability of Materials for Intended Use. All Customer Materials are suitable for their Intended Use and the qualities and characteristics of Customer Materials meet or exceed the minimum requirements under Laws for Intended Use.

4. Land Application of Biosolids. If land application is an Intended Use of Customer Materials, the following shall apply:

a. Customer agrees to provide Contractor with Customer Materials that meet federal, state and local land application criteria at the time they are released to Contractor. Where Contractor Services include pathogen reduction requirements and/or vector attraction reduction, Customer is not obligated to meet pathogen and/or vector attraction reduction requirements.

b. Customer shall provide Contractor documentation that Customer's biosolids meet 40 CFR PART 503, state and local land application quality criteria with respect to the three biosolids quality criteria (i.e. metals content, pathogen reduction requirements, and vector attraction reduction requirements) unless Contractor has specifically agreed otherwise as part of the Contractor Services described below. This information is to be supplied to Contractor using a Notice and Necessary Information ("NANI") form or NANI Equivalent within 45 days after the end of the Customer's monitoring period based on the biosolids testing frequency in 40 CFR 503.16. "NANI Equivalent" shall mean lab results which clearly show the three biosolids quality criteria are met (e.g. metal test results, fecal coliform test results, SOUR test results). If Customer has more than one Customer Facility, a NANI Form or NANI Equivalent is required for each Customer Facility at which Contractor Services are being provided. If Customer

uses more than one treatment process within Customer Facility, (for example, customer produces anaerobically digested and lime stabilized biosolids) a NANI form or NANI Equivalent is required for each treatment process used by the Customer. If Customer has stored biosolids in more than one location/structure within Customer Facility produced over different time periods or tested separately due to its unique characteristics or Customer's desired sampling program, a NANI form or NANI Equivalent are required for each Customer Facility storage location/structure. Contractor shall have the right to rely upon any information or certification provided by Customer and shall not have any independent duty to investigate or inquire regarding the subject matter of Customer's certification or of the information which Customer provides to Contractor. Where Contractor Services include pathogen reduction requirements, the NANI Form or NANI Equivalent provided Customer is not required to document compliance with pathogen reduction requirements by Law. Where Contractor Services include vector attraction reduction, the NANI Form or NANI Equivalent provided by Customer is not required to document compliance with vector attraction reduction requirements.

c. If Customer fails to provide the NANI Form or NANI Equivalent when required by Law, Contractor shall have the immediate right, but not the obligation, to suspend or terminate Contractor Services or this Agreement. Customer shall be liable for all additional costs and expenses arising out of such suspension or termination.

d. Contractor will land apply Customer Materials based on the most current NANI Form or NANI equivalent test results provided to the Contractor.

5. Disposal of Biosolids into Landfill. Where Customer Materials are to be disposed of in landfill(s), Customer Materials must meet the requirements in 40 CFR Part 258 (e.g., pass paint filter test and be non-hazardous per 40 CFR Part 261) and any applicable state requirements

**B. Industrial Residuals:**

1. Hazardous Materials. Customer will not provide Hazardous Materials to Contractor.

2. Polychlorinated Biphenyls. Customer Materials shall not contain a concentration of polychlorinated biphenyls (PCB's) equal to or greater than 50 milligrams per kilogram (dry weight basis), nor shall Customer Materials violate more stringent state or local standards, where applicable.

3. Suitability of Materials for Intended Use. All Customer Materials are suitable for their Intended Use and the qualities and characteristics of Customer Materials meet or exceed the minimum requirements under Laws for Intended Use.

4. Cadmium. Customer will provide Contractor with the total cadmium (Cd) concentration of the residuals in milligrams per kilograms (mg/kg) dry weight with the frequency required by Laws.

5. Disease Vectors. Customer Materials shall not attract disease vectors that endanger public health.

6. Disposal of Biosolids into Landfill. Where Customer Materials are to be disposed of in landfill(s), Customer Materials must meet the requirements in 40 CFR Part 258 (e.g., pass paint filter test and be non-hazardous per 40 CFR Part 261) and any applicable state requirements.

**C. Additional Customer Materials (if any):**