

Return Date: No return date scheduled
Hearing Date: No hearing scheduled
Courtroom Number: No hearing scheduled
Location: No hearing scheduled

FILED
9/4/2019 11:56 AM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2017CH02318

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

6434542

BBJL PROPERTIES, LLC, for itself and on
behalf of all other Illinois Citizens similarly
situated,

Plaintiffs,

v.

FLOOD BROS DISPOSAL CO., d/b/a
FLOOD BROTHERS,

Defendant.

Case No.: **2017 CH 02318**

Jury Trial Demanded

PLAINTIFF'S FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiff, BBJL Properties, LLC ("BBJL"), for itself and on behalf of all other Illinois citizens similarly situated, complaining of the Defendant Flood Bros Disposal Co., on personal knowledge as to its own actions and otherwise on information and belief, states as follows:

INTRODUCTION

1. Defendant Flood Bros Disposal Co. d/b/a Flood Brothers Disposal/Recycling Services (hereinafter referred to as "Defendant" or "Flood Brothers"), provides waste disposal and recycling services to customers such as Plaintiff throughout Chicago and its surrounding suburbs.

2. Defendant provides these services to its customers in exchange for an agreed upon service rate. Often, Defendant enters into written agreements for these services. These agreements are uniform and effectively identical. (Attached hereto as Exhibit B and Exhibit C is a true and

correct copy of Plaintiff's service agreements.)¹

3. In addition to the agreed upon service rate, Defendant charges and collects the following illegitimate fees: the "environmental & regulatory charge", the "container service fee", and the "quarterly administrative fee" (hereinafter referred to collectively as the "Fees"). As described more fully below, Defendant has breached the terms of its uniform service agreements by requiring Plaintiff and class members to pay the Fees which it force-placed on customer invoices in violation of the pre-printed, uniform agreements entered into between Defendant and its customers.

4. Additionally, the Fees are deceptive, misleading, and in violation of the Illinois Consumer Fraud and Deceptive Practices Act, 815 ILCS 505/1 *et seq.* ("ICFA"). For example, by representing the environmental and regulatory charge as an "environmental & regulatory charge," Defendant deceives its customers (including Plaintiff) into believing that the fee is a legitimate charge that is related to its actual or increased environmental and regulatory costs. To the contrary, the "environmental & regulatory charge" is simply a profit enhancer which Defendant misrepresents to create the impression that it is valid and proper. Defendant misled customers each time Defendant sent an invoice to Plaintiff and class members containing this fee. Defendant also concealed material facts from Plaintiff and class members regarding the "environmental & regulatory charge," including the fact that the fee is not related to any actual or increased environmental or regulatory costs Defendant might incur.

5. This case presents a prototypical situation for class treatment. Defendant's conduct is uniform among all its customers. The contracts and invoices are identical in all relevant respects.

¹ Plaintiff contracted with Flood Brothers for waste disposal services at both of its 6-unit apartment buildings. Exhibit B is the contract for Plaintiff's 740 S. California Ave. property. Exhibit C is the contract for Plaintiff's 1122 S. California Ave. property.

The application of Illinois law to a shared course of conduct will determine liability for each class as a whole, ensuring that the rights of hundreds of small businesses and individuals are vindicated through the efficiency of a single trial.

6. Plaintiff and members of each putative class as set forth below (hereinafter collectively referred to as “customers”) have been damaged by Defendant’s wrongful conduct by paying the illegitimate Fees. Plaintiff brings this class action against Defendant on its own behalf and on behalf of the members of each class to recover the Fees paid by Plaintiff and members of each class.

PARTIES

7. Plaintiff BBJL Properties is a domestic limited liability company, operating in Illinois. Plaintiff contracted for Defendant’s services in Illinois from at least 2014 through the present.

8. Defendant Flood Bros Disposal Co., an Illinois corporation, is organized and exists under the laws of the State of Illinois with a principal place of business in the State of Illinois. Defendant’s appointed agent for service of process in Illinois is Robert P. Flood, 17 W. 697 Butterfield Rd., Suite E, Oakbrook Terrace, Illinois, 60181.

JURISDICTION, VENUE, AND APPLICABLE LAW

9. This Court has jurisdiction over this action and venue is proper in this Court. Plaintiff’s business is located in Cook County, Illinois. Furthermore, venue is proper in this Court pursuant to 735 ILCS 5/2-101 because a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this judicial district. Plaintiff’s claims arise solely under state law and Plaintiff makes no claims under Federal law.

FACTUAL ALLEGATIONS

Background

10. Defendant is in the business of providing waste disposal and recycling services, and provides these services to its Illinois customers.

11. Defendant services over 150 communities with a wide variety of services, including dumpster rental, residential, commercial, and industrial waste management, recycling, and even custom compactors.

12. Defendant enters into written service agreements with customers for these services which outline the terms and conditions of the service. Plaintiff entered into two such agreements with Defendant for its two 6-unit apartment buildings. Plaintiff initially entered into an agreement for its 740 S. California Ave. property, in Cook County, Illinois, on or about July 10, 2014, a copy of which is attached hereto as Exhibit A. This contract was subsequently modified on July 14, 2014 when the parties entered into a new contract for a fixed term of one-year beginning July 1, 2016 and ending July 1, 2017 with no automatic renewals (Exhibit B). Plaintiff also entered into an agreement for its 1122 S. California Ave. location on September 10, 2014, a copy of which is attached hereto in Exhibit C. Defendant's pre-printed, uniform contracts and invoices contained the same relevant provisions for each class member.

The so-called "environmental & regulatory charge"

13. Defendant provides its services to customers, such as Plaintiff, in exchange for a contractually agreed upon service rate. However, in addition to this service rate, and in violation of Defendant's uniform contractual terms and language, Defendant also charges its customers an illegitimate "environmental & regulatory charge." Defendant charges the "environmental & regulatory charge" in a uniform manner to every customer charged this fee.

14. The relevant portion of Defendant's uniform terms and conditions, PRICE AND PAYMENT, which forms the basis of Plaintiff's breach of contract claim, states as follows:

Since sanitary landfill, disposal charges and processing fees to which Contractor is subject are a significant costs of the service provided, Contractor may Increase the unit price of collection services provided the Customers in an amount equal to any equivalent unit increase in disposal or processing costs to which Contractor is subjected including increases in transportation costs due to changes in location of the disposal facility and proportionately pass through to the customer increases in the average weight per container yard of the Customer's Waste Materials. Contractor has the right to raise the rate at any time based on the type and weight of material. Contractor may provide thirty (30) days written notice of the price change due to increased disposal or processing cost, which may be shown in adding weight. The Schedule of Charges may be adjusted from time to time to reflect increases in the Consumer Price Index since the last adjustment (or since the date of execution of this agreement for the first adjustment). The Schedule of Charges may be adjusted for reasons other than increases in disposal or fuel costs or the Consumer Price Index, subject to approval by Customer. Customer shall be liable for all taxes, fees, or other charges imposed by federal, state or local laws and regulations upon the collection, transportation, or disposal of customer's waste materials or the service performed hereunder.

15. Defendant purportedly charges the "environmental & regulatory charge" either (a) to proportionately adjust for any equivalent increases in disposal or processing costs it may incur, such as increases in transportation costs due to changes in the location of the disposal facility or weight per container yard of the customer's waste materials; (b) to account for increases in the Consumer Price Index, or (c) to account for taxes, fees, or other charges imposed by federal, state or local laws and regulations relating to the service.

16. Defendant has breached its uniform service agreements because the "environmental & regulatory charge" is not charged or collected proportionally to any related increased costs Defendant purportedly incurs. Neither is the "environmental & regulatory charge" charged to account for increases in the Consumer Price Index or to recover Defendant's "taxes, fees, or other charges imposed by federal, state or local laws and regulations upon the collection, transportation, or disposal of customer's waste materials or the service performed hereunder."

17. Defendant has performed no legitimate analysis to determine its increased environmental or regulatory costs, or its disposal, transportation or processing costs, as those costs might relate to the “environmental & regulatory charge.” Rather, Defendant devised, implemented, and set the amount of the “environmental & regulatory charge” by copying its competitors simply to increase its profits without any regard to its actual or increased environmental, regulatory, transportation, disposal, or processing costs.

18. Additionally, after locking customers into these agreements for an automatic term of five (5) years, Defendant subsequently force-places the illegitimate “environmental & regulatory charge” on customers’ invoices, assessed at approximately 32% of the service charge, and compels customers to pay the “environmental & regulatory charge” or face substantial liquidated damages and attorney fees. Customers are not informed of the “environmental & regulatory charge” amounts when they enter into contracts with Defendant.

19. Furthermore, Defendant does not apply the money received from the “environmental & regulatory charge” to offset its actual or increased environmental or regulatory costs; rather, upon information and belief, such money is recognized as normal revenue and contributes directly to Defendant’s profit. Further, the amount of the “environmental & regulatory charge” is excessive.

20. Additionally, Defendant has breached its uniform service agreements because any environmental or regulatory costs Defendant purportedly recovers through the “environmental & regulatory charge” are already recovered, in whole or in part, through the service rates or “scavenger service charges” Defendant charges its customers. This rate includes the individual component costs of Defendant’s business, including any environmental costs and other overhead. Thus, Defendant is double dipping: charging for its environmental and regulatory costs in the

service rate, and then charging for environmental and regulatory costs again through the illegitimate “environmental & regulatory charge.”

21. Similarly, Defendant has breached its uniform service agreements because the “environmental & regulatory charge” is not charged to offset or pass through any charges imposed by federal, state or local laws and regulations for Defendant’s collection, transportation, or disposal of its customers’ waste.

22. Defendant knows before it enters into agreements with its customers the amount it will charge for the illegitimate “environmental & regulatory charge,” but Defendant does not disclose this fact or include it in its pre-printed, uniform agreements.

23. Plaintiff BBJL Properties received invoices sent by Defendant, including an invoice for its 740 S. California Ave. property bearing the date of July 18, 2016 and containing a \$34.80 environmental & regulatory charge. (Copy attached hereto as Exhibit D.) Plaintiff BBJL Properties also received invoices sent by Defendant at its 1122 S. California Ave. property, including an invoice on August 13, 2015 and containing a \$20.00 environmental and regulatory charge. (Copy attached hereto as Exhibit E). Plaintiff BBJL Properties paid each of these invoices, including the environmental & regulatory charge.

24. As a result, Defendant has breached the uniform terms and conditions of its service agreements with Plaintiff and class members by charging for an additional fee in violation of the parties’ contractual terms. Plaintiff and class members have been directly harmed by Defendant’s conduct in that they have paid more for Defendant’s services than agreed upon. Defendant’s charging of the “environmental & regulatory charge,” therefore, constitutes a breach of contract.

The “Environmental & Regulatory Charge” is a Single Misleading and Deceptive Profit Scheme

25. Defendant’s charging and collecting of the “environmental & regulatory charge” is

deceptive and unfair, and Defendant has made misleading statements regarding the “environmental & regulatory charge” in violation of the Illinois’ Consumer Fraud and Deceptive Trade Practice Act, 815 ILCS 505/1 *et seq.* (“ICFA”).

26. Defendant misrepresents, and fails to disclose, material facts regarding the nature, purpose, and effect of the “environmental & regulatory charge” to Plaintiff and class members. In fact, the term “environmental & regulatory charge” itself is a misrepresentation as this fee is neither charged to recover Defendant’s increased environmental or regulatory costs nor is it charged to offset Defendant’s actual or increased environmental or regulatory costs.

27. Defendant’s naming of the “environmental & regulatory charge” is not accidental. Defendant chose this term intentionally to create the false pretense that the “environmental & regulatory charge” is a legitimate charge directly related to specific environmental and regulatory costs Defendant incurs in providing service to its customers. However, the term “environmental & regulatory charge” has a particular meaning, and Defendant’s environmental & regulatory charge as charged does not comport to that meaning. By using the term “environmental & regulatory charge” - a term which Defendant has uniformly used on every invoice received by every class member charged this fee - Defendant falsely represents that this fee is directly related to its actual or increased environmental and regulatory costs.

28. This practice was done with the intent to deceive Plaintiff and class members and was the proximate cause of injury to Plaintiff and class members.

29. Defendant also has omitted material facts regarding the “environmental & regulatory charge” in order to intentionally deceive Plaintiff and every class member. For example, Defendant does not disclose that the “environmental & regulatory charge”:

(a) is not applied to offset Defendant’s actual or increased environmental or regulatory

costs;

- (b) is not related to Defendant's actual or increased environmental or regulatory costs;
- (c) is not calculated in a manner designed to recover Defendant's actual or increased environmental or regulatory costs;
- (d) is actually recognized as profit; and
- (e) is charged in an amount which substantially exceeds Defendant's actual or increased environmental or regulatory costs.

30. Defendant does not disclose its actual environmental or regulatory costs to customers, nor does it disclose the actual methodology used to calculate the "environmental & regulatory charge." There is no information provided on Defendant's website or otherwise provided to customers by Defendant regarding the "environmental & regulatory charge," or explaining how the fee is calculated. Therefore, because Defendant never disclosed its actual environmental or regulatory costs to customers, there is no way a customer can possibly know the "environmental & regulatory charge" does not relate to Defendant's actual or increased environmental or regulatory costs.

31. Furthermore, Defendant's sales representatives (or any other employees for that matter) do not know how the "environmental & regulatory charge" is calculated, do not know how Defendant arrives at the percentage amount it charges for the "environmental & regulatory charge", and do not know what costs, if any, the "environmental & regulatory charge" is charged to recover. Therefore, Defendant's sales representatives/employees could not have explained such information to any of Defendant's customers.

32. Defendant has consistently and continually deceived its customers with regard to the nature and purpose of the "environmental & regulatory charge." Defendant does so in order to

mislead its customers into believing that the “environmental & regulatory charge” is a legitimate fee that is directly related to Defendant’s actual or increased environmental and regulatory costs it incurs in providing services to its Illinois customers. Defendant makes this misrepresentation on every invoice it sends to its customers containing the “environmental & regulatory charge.”

33. Plaintiff has reason to believe that Defendant made identical misrepresentations to each class member when Defendant sent or presented each class member with similar invoices, which are identical in all relevant respects.

34. From its unfair, deceptive, and misleading practices, Defendant has wrongfully collected the “environmental & regulatory charges” from Plaintiff and class members for years in violation of the Illinois’ Consumer Fraud and Deceptive Trade Practice Act, 815 ILCS 505/1 *et seq.* Plaintiff brings this action to recover the entirety of these ill-gotten gains, and all other relief which the Court or jury find to be appropriate.

The “container service fee” and “quarterly administrative fee”

35. Like the “environmental & regulatory charge”, Defendant also charges its customers three additional Fees it calls the “container service fee” and “quarterly administrative fee.” Defendant charges these Fees in addition to the agreed upon service rate and in violation of Defendant’s uniform contractual terms and language. Defendant charges these Fees in a uniform manner to every customer charged these Fees.

36. Customers are not informed of the Fee amounts when they enter into contracts with Defendant. Furthermore, Defendant does not apply the money received from the Fees to offset its actual or increased container servicing or administrative costs; rather, upon information and belief, such money is recognized as normal revenue and contributes directly to Defendant’s profit. Further, the amount of the Fees is excessive.

37. Additionally, Defendant has breached its uniform service agreements because any container servicing or administrative costs Defendant purportedly recovers through the Fees are already recovered, in whole or in part, through the service rates Defendant charges its customers. This rate includes the individual component costs of Defendant's business, including servicing containers and administrative costs in addition to other overhead costs. Thus, Defendant is double dipping: charging for such costs in the service rate, and then charging for such costs again through the illegitimate Fees.

38. Defendant knows before it enters into agreements with its customers the amount it will charge for the illegitimate Fees, but Defendant does not disclose this fact or include it in its pre-printed, uniform agreements.

39. As a result, Defendant has breached the uniform terms and conditions of its service agreement with Plaintiff and class members by charging for additional Fees in violation of the parties' contract terms. Plaintiff and class members have been directly harmed by Defendant's conduct in that they have paid more for Defendant's services than agreed upon. Defendant's charging of the Fees, therefore, constitutes a breach of contract.

40. Defendant's charging and collecting of the "container service fee" and "quarterly administrative fee" is also deceptive and unfair, and Defendant has made misleading statements regarding such Fees in violation of the Illinois' Consumer Fraud and Deceptive Trade Practice Act, 815 ILCS 505/1 et seq. ("ICFA").

41. Defendant misrepresents, and fails to disclose, material facts regarding the nature, purpose, and effect of such Fees to Plaintiff and class members. In fact, the terms "container service fee" and "quarterly administrative fee" are themselves a misrepresentation as these Fees are neither charged to recover Defendant's increased container servicing or administrative costs

nor are they charged to offset Defendant's actual or increased container servicing or administrative costs.

42. Defendant's naming of the Fees is not accidental. Defendant chose these terms intentionally to create the false pretense that the Fees are a legitimate charge directly related to the specific container servicing and administrative costs Defendant incurs in providing service to its customers. By using the terms "container service fee" and "quarterly administrative fee" – terms which Defendant has uniformly used on every invoice received by every class member charged these Fees – Defendant falsely represents that these Fees are directly related to its actual or increased container servicing and administrative costs.

43. This practice was done with the intent to deceive Plaintiff and class members and was the proximate cause of injury to Plaintiff and class members.

44. Defendant also has omitted material facts regarding the Fees in order to intentionally deceive Plaintiff and every class member. For example, Defendant does not disclose that such Fees:

- a) are not applied to offset Defendant's actual or increased container servicing and administrative costs;
- b) are not related to Defendant's actual or increased container servicing and administrative costs;
- c) are not calculated in a manner designed to recover Defendant's actual or increased container servicing and administrative costs;
- d) are actually recognized as profit; and
- e) are charged in an amount which substantially exceeds Defendant's actual or increased container servicing and administrative costs.

45. Defendant has consistently and continually deceived its customers with regard to the nature and purpose of the Fees. Defendant does so in order to mislead its customers into believing that the Fees are legitimate Fees that are directly related to Defendant's actual or increased container servicing and administrative costs it incurs in providing services to its Illinois customers.

46. Defendant makes this misrepresentation on every invoice it sends to its customers containing the Fees.

47. Plaintiff has reason to believe that Defendant made identical misrepresentations to each class member when Defendant sent or presented each class member with similar invoices, which are identical in all relevant respects.

48. From its unfair, deceptive, and misleading practices, Defendant has wrongfully collected the "container service fee" and "quarterly administrative fee" from Plaintiff and class members for years in violation of the Illinois' Consumer Fraud and Deceptive Trade Practice Act, 815 ILCS 505/1 *et seq.* Plaintiff brings this action to recover the entirety of these ill-gotten gains, and all other relief which the Court or jury find to be appropriate.

49. The material facts pertaining to the illegitimacy of Defendant's Fees were obscured and inaccessible to Plaintiff and class members. Plaintiff and class members did not, and could not, possess full knowledge of the facts necessary to protest Fees or to ascertain the basis of the Fees they were being charged and paying. This is because Defendant intentionally does not disclose the requisite facts regarding the illegitimacy of the Fees. Defendant does not disclose to customers how the Fees are calculated, nor does Defendant conduct or share with customers any cost analysis indicating that the Fees are being charged in the proper amount. In fact, information concerning the Fees is not described by Defendant anywhere, in any form.

50. Furthermore, Defendant's sales representatives (or any other employees for that matter) do not know how the Fees are calculated, do not know how Defendant arrives at the percentage amount for the Fees, and do not know what costs, if any, such Fees are charged to recover. Therefore, Defendant's sales representatives/employees could not have explained such information to any of Defendant's customers.

51. Defendant knows when it enters into agreements with customers that the customers will pay substantially more than the contractually agreed upon service rate. Yet, Defendant does not disclose this fact to customers. Instead, after locking customers into standard service agreements, Defendant subsequently force-places the illegitimate Fees on customers' invoices and compels them to pay the Fees.²

52. Plaintiff and class members, therefore, had no reason to inquire about the legitimacy of the Fees because they had no reason to believe the Fees were not what Defendant purported them to be. Any inquiry regarding the Fees would have been futile as Defendant's employees would certainly not have disclosed to customers that that the Fees were not what they were purported to be.

53. Additionally, Plaintiff had no choice but to pay the Fees. The force-placement of the Fees is done against pain of Plaintiff's and class members' own breach of contract and the onerous penalties imposed thereby. Under the terms of Defendant's contract, Plaintiff and class members were subject to payment of liquidated damages and Defendant's attorneys' fees and costs if Plaintiff failed to pay the Fees imposed on its invoices. (*See, e.g.*, Exhibit B and Exhibit C,

² As previously stated, the Fees are not described in Defendant's service agreement. The Fees only appear after Defendant has locked customers into service agreements and has already performed its services pursuant to the parties' service agreement. At this point, customers are now compelled to pay for Defendants' services, including the Fees.

Terms and Conditions). Plaintiff and class members, under the terms of Defendant's contract, would also be required to pay interest on any unpaid invoice amounts that included such Fees. (*See, e.g.*, Exhibit B and Exhibit C, Terms and Conditions).

CLASS ALLEGATIONS

54. Plaintiff brings this action as a class action under Illinois law and initially proposes the following classes:

55. The "**Breach of Contract Class**" is defined as:

All persons (including legal entities) who are Illinois citizens that entered into a written contract with Flood Brothers, and/or its related entities, and that paid, directly or indirectly, Flood Brothers and/or its related entities an "environmental & regulatory charge", "container service fee", or "quarterly administrative fee" (or other similarly named fee(s)) from February 15, 2007 through the date of class notice (the "Class Period").

56. The "**ICFA Class**" is defined as:

All persons (including legal entities) who are Illinois citizens that paid, directly or indirectly, Flood Brothers and/or its related entities an "environmental & regulatory charge", "container service fee", or "quarterly administrative fee" (or other similarly named fee(s)) from February 15, 2012 through the date of class notice (the "Class Period").

57. Excluded from each proposed class are members of the judiciary, entities currently in bankruptcy, entities whose obligations have been discharged in bankruptcy, and governmental entities. Also excluded from each class are those customers who executed a valid, binding arbitration agreement, but such customers are only excluded for the time period that such arbitration agreement was in effect.

58. Plaintiff reserves the right to amend or modify the class definitions and/or to move for certification of a class or classes defined differently than as set forth above depending on the facts or law as discovered in this action.

59. This action is brought and may properly be maintained as a class action pursuant to

Illinois Code of Civil Procedure 735 ILCS 5/2-801. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of these rules.

60. Plaintiff maintains the right to create additional subclasses or classes, if necessary, and to revise each class definitions to maintain a cohesive class which does not require individual inquiry to determine liability.

61. The exact number of class members for each class is unknown to Plaintiff at this time, but such information can be ascertained through appropriate discovery, specifically from records maintained by Defendant and its agents. Upon information and belief, the number of members of each putative class exceeds 100 persons and entities.

Existence and Predominance of Common Questions

62. There are common questions of law and fact which are of general interest to the classes. These common questions of law and fact predominate over any questions affecting only individual members of the classes. Such common questions include, but are not limited to, the following:

- a. Whether the manner in which Defendant charges, calculates, and collects the Fees in this case constitutes a breach of contract;
- b. Whether the manner in which Defendant charges, calculates, and collects the Fees is consistent with the terms and language of its uniform service agreements;
- c. Whether Defendant charges excessive and unconscionable amounts for the Fees;
- d. Whether Defendant charges the Fees in a uniform manner;
- e. Whether Defendant's use of the term "environmental & regulatory charge" is unfair and/or deceptive;
- f. Whether Defendant's use of the term "container service fee" is unfair and/or deceptive;

- g. Whether Defendant's use of the term "quarterly administrative fee" is unfair and/or deceptive;
- h. Whether Defendant has failed to disclose material facts regarding the Fees and/or misrepresented material facts about the Fees;
- i. Whether Defendant's representations and omissions regarding the Fees constitute a deceptive trade practice under the ICFA;
- j. Whether the term "environmental & regulatory charge" is likely to mislead a reasonable person;
- k. Whether the term "container service fee" is likely to mislead a reasonable person;
- l. Whether the term "quarterly administrative fee" is likely to mislead a reasonable person;
- m. Whether Defendant deceptively created the false pretense that the "environmental & regulatory charge" is actually an "environmental & regulatory charge";
- n. Whether Defendant deceptively created the false pretense that the "container service fee" is actually a "container service fee";
- o. Whether Defendant deceptively created the false pretense that the "quarterly administrative fee" is actually a "quarterly administrative fee";
- p. Whether the Fees were intended to deceive Defendant's customers;
- q. Whether the amount charged for the "environmental & regulatory charge" is directly related to Defendant's actual or increased environmental costs;
- r. Whether the amount charged for the "environmental & regulatory charge" is directly related to Defendant's actual or increased regulatory costs;
- s. Whether the amount charged for the "container service fee" is directly related to

- Defendant's actual or increased container servicing costs;
- t. Whether the amount charged for the "quarterly administrative fee" is directly related to Defendant's actual or increased administrative costs;
 - u. Whether Defendant uses the revenue from the Fees to offset its (respective) actual or increased environmental and regulatory costs, container servicing costs, or administrative costs;
 - v. Whether the amount charged for the Fees fluctuates as Defendant's (respective) environmental and regulatory costs, container servicing costs, or administrative costs fluctuate;
 - w. Whether the amount charged for the Fees bears any relation to Defendant's (respective) actual or increased environmental and regulatory costs, container servicing costs, or administrative costs;
 - x. Whether the Fees are designed as a profit enhancer and not a cost recovery mechanism for Defendant;
 - y. Whether Defendant is recovering for the same alleged costs twice ("double dipping");
 - z. Whether Defendant has ceased charging the illegitimate, excessive, and unconscionable Fees;
 - aa. Whether Defendant has omitted or suppressed material facts about the Fees; and
 - bb. Whether Plaintiff and class members are entitled to class relief as requested herein.

Typicality and Numerosity

63. The claims of the named Plaintiff are typical of the claims of each class. Defendant's common course of conduct caused Plaintiff and all class members the same harm. Defendant's conduct caused each class member's economic losses. Upon information and belief,

the total number of members of each class exceeds 100 members and the classes are so numerous that separate joinder of each member is impracticable.

Adequacy

64. Plaintiff will fairly and adequately protect the interests of the members of each putative class and has no interest antagonistic to those of other class members. Plaintiff has retained class counsel competent to prosecute class actions and such class counsel is financially able to represent each class.

Superiority

65. Each class may be properly maintained under Illinois Code of Civil Procedure 735 ILCS 5/2-801(4). A class action is superior to other available methods for the fair and efficient adjudication of this controversy since individual joinder of all members of each class is impracticable. The interests of judicial economy favor adjudicating the claims for the classes rather than on an individual basis. The class action mechanism provides the benefit of unitary adjudication, economies of scale, and comprehensive supervision by a single court.

66. Despite the relatively small size of individual class members' claims, their aggregate volume, coupled with the economies of scale in litigating similar claims on a common basis, will enable this case to be litigated as a class action on a cost-effective basis, especially when compared with the cost of individual litigation.

67. Questions of law and fact predominate over any questions affecting only individual members of each putative class.

CLAIMS FOR RELIEF

COUNT ONE **BREACH OF CONTRACT**

68. Plaintiff, individually and on behalf of the Breach of Contract Class, incorporates

by reference paragraphs 1-3, 5-24, 35-39, 49-55, and 57-66 of this First Amended Class Action Complaint.

69. The elements of a claim for breach of contract are: “(i) the existence of a valid and enforceable contract, (ii) performance by the plaintiff, (iii) breach of the contract by the defendant, and (iv) resultant injury to the plaintiff.” *Batson v. Oak Tree, Ltd.*, 2013 IL App (1st) 123071, ¶ 35. Plaintiff has adequately pled each of these elements.

70. A valid agreement exists between Plaintiff and Breach of Contract Class members on the one hand and Defendant Flood Brothers on the other hand, as set forth above.

71. Defendant’s service agreements entered into with members of the Breach of Contract Class contain terms and conditions substantively identical to those in Plaintiff’s service agreements. Plaintiff and each Breach of Contract Class member has performed its obligations under their respective contracts.

72. Defendant provides its services to customers, such as Plaintiff, in exchange for a contractually agreed upon service rate. However, in addition to this service rate, and in violation of Defendant’s uniform contractual terms and language, Defendant also charges its customers the illegitimate Fees described herein. Defendant charges the Fees in a uniform manner to every customer charged these Fees.

73. Defendant purportedly charges the “environmental & regulatory charge” to proportionately adjust for any equivalent increases in environmental, disposal or processing costs it may incur, such as increases in transportation costs due to changes in the location of the disposal facility or weigh per container yard of the customer’s waste materials. (*See* Exhibit B and Exhibit C – “PRICE AND PAYMENT” provision).

74. Defendant has breached its uniform service agreements because the “environmental

& regulatory charge” is not charged or collected in accordance with Defendants’ contractual provisions. The “environmental & regulatory charge” is not charged or collected proportionally to any related increased costs Defendant purportedly incurs. Neither is the “environmental & regulatory charge” charged to recover Defendant’s “taxes, fees, or other charges imposed by federal, state or local laws and regulations upon the collection, transportation, or disposal of customer’s waste materials or the service performed hereunder.” (*Id.*).

75. Defendant has performed no legitimate analysis to determine its increased environmental or regulatory costs, or its environmental, disposal or processing costs, as those costs might relate to the “environmental & regulatory charge.” Rather, Defendant devised, implemented, and set the amount of the “environmental & regulatory charge” simply by copying its largest competitors to increase its profits without any regard to its increased environmental, regulatory, disposal, or processing costs.

76. Additionally, after locking customers into agreements for an automatic term of five (5) years, Defendant subsequently force-places the illegitimate “environmental & regulatory charge” on customers’ invoices, assessed at approximately 32% of the service charge, and compels customers to pay the “environmental & regulatory charge” or face substantial liquidated damages and attorney fees. Customers are not informed of the “environmental & regulatory charge” amounts when they enter into contracts with Defendant.

77. Furthermore, Defendant does not apply the money received from the “environmental & regulatory charge” to offset its actual or increased environmental, regulatory, disposal or processing costs; rather, upon information and belief, such money is recognized as revenue and contributes directly to Defendant’s profit. Further, the amount of the “environmental & regulatory charge” is excessive.

78. Additionally, Defendant has breached its uniform service agreements because any environmental, regulatory, disposal or processing costs Defendant purportedly recovers through the “environmental & regulatory charge” are already recovered, in whole or in part, through the service rates Defendant charges its customers. This service rate includes the individual component costs of Defendant’s business, including any environmental and regulatory costs and other overhead. Thus, Defendant is double dipping: charging for its environmental and regulatory costs in the service rate, and then charging for environmental and regulatory costs again through the illegitimate “environmental & regulatory charge.”

79. Similarly, Defendant has breached its uniform service agreements because the “environmental & regulatory charge” is not charged to offset or pass through any charges imposed by federal, state or local laws and regulations for Defendant’s collection, transportation, or disposal of its customers’ waste.

80. Defendant knows before it enters into agreements with its customers the amount it will charge for the illegitimate “environmental & regulatory charge,” but Defendant does not disclose this fact or include it in its pre-printed, uniform agreements.

81. Plaintiff BBJL Properties received invoices sent by Defendant at its 740 S. California Avenue property, including an invoice bearing the date of July 18, 2016 and containing a \$34.80 environmental & regulatory charge. Plaintiff BBJL Properties also received invoices sent by Defendant at its 1122 S. California Avenue property, including an invoice on August 13, 2015 and containing a \$20.00 environmental and regulatory charge. Plaintiff BBJL Properties paid these invoices, including the environmental & regulatory charge amount.

82. As a result, Defendant has breached the uniform terms and conditions of its service agreements with Plaintiff and class members by charging for an additional fee in violation of the

parties' contract terms. Plaintiff and class members have been directly harmed by Defendant's conduct in that they have paid more for Defendant's services than agreed upon. Defendant's charging of the "environmental & regulatory charge," therefore, constitutes a breach of contract.

83. Defendant has also breached its contract by charging its customers the additional Fees it calls the "container service fee" and "quarterly administrative fee." Defendant charges these Fees in addition to the agreed upon service rate and in violation of Defendant's uniform contractual terms and language. Defendant charges these Fees in a uniform manner to every customer charged these Fees.

84. Customers are not informed of the Fee amounts when they enter into contracts with Defendant. Furthermore, Defendant does not apply the money received from the Fees to offset its actual or increased container servicing or administrative costs; rather, upon information and belief, such money is recognized as normal revenue and contributes directly to Defendant's profit. Further, the amount of the Fees is excessive.

85. Additionally, Defendant has breached its uniform service agreements because any container servicing or administrative costs Defendant purportedly recovers through the Fees are already recovered, in whole or in part, through the service rates Defendant charges its customers. This rate includes the individual component costs of Defendant's business, including any container servicing and administrative costs in addition to other overhead costs. Thus, Defendant is double dipping: charging for such costs in the service rate, and then charging for such costs again through the illegitimate Fees.

86. Defendant knows before it enters into agreements with its customers the amount it will charge for the illegitimate Fees, but Defendant does not disclose this fact or include it in its pre-printed, uniform agreements.

87. As a result, Defendant has breached the uniform terms and conditions of its service agreements with Plaintiff and class members by charging for additional Fees in violation of the parties' contract terms. Plaintiff and class members have been directly harmed by Defendant's conduct in that they have paid more for Defendant's services than agreed upon. Defendant's charging of the Fees, therefore, constitutes a breach of contract.

88. Defendant has also breached its duty of good faith and fair dealing with Plaintiff and Breach of Contract Class members. "It is well established that the duty of good faith and fair dealing is implied in every contract. Its purpose is to ensure that parties do not take advantage of each other in a way that could not have been contemplated at the time the contract was drafted or do anything that will destroy the other party's right to receive the benefit of the contract." *Gore v. Indiana Ins. Co.*, 376 Ill. App. 3d 282, 286 (2007) (citing *Dayan v. McDonald's Corp.*, 125 Ill. App. 3d 972, 991 (1984)). Defendant has breached its duty of good faith and fair dealing because the Fees are not authorized by the agreements but Defendant charges them nonetheless and requires Plaintiff and Breach of Contract Class members to pay them. Defendant has further breached its duty of good faith and fair dealing because the Fees bear no relationship to any actual or increased (respective) environmental or regulatory costs, container servicing costs, or administrative costs Defendant incurs. Such Fees are illegitimate and the amounts charged for the Fees are excessive. Therefore, Defendant breached its duty of good faith and fair dealing owed to Plaintiff and Breach of Contract Class members by charging Plaintiff and Breach of Contract Class members the Fees as described herein.

89. Such breaches of contract occurred in the past and are ongoing and continue today. Plaintiff and Breach of Contract Class Members have suffered damages through Defendant's charging and collecting of the Fees and are entitled to all monies paid for the Fees, plus interest,

or in the alternative the excessive portions of the amounts paid for the Fees, plus interest.

WHEREFORE, Plaintiff and Breach of Contract Class Members pray this Court certify the class identified herein, enter judgment in their favor and against Defendant, award compensatory damages in an amount in excess of \$50,000.00, plus costs incurred in bringing this suit, and grant such other and further relief as the Court deems appropriate.

COUNT TWO
ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT,
815 ILCS 505/1 *et seq.*

90. Plaintiff, individually and on behalf of the ICFA Class, incorporate paragraphs 4-11, 23, 25-34, 40-54, 56, and 57-67 of this First Amended Class Action Complaint.

91. The Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*, prohibits “unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, [or] misrepresentation . . . in the conduct of any trade or commerce.” 815 ILCS 505/2. The ICFA prohibits deception through affirmative conduct, such as misrepresentation, as well as through omissions. *Id.*

92. Defendant is a “person” as defined in the ICFA, 815 ILCS 505/1(c), and conducts “trade” and “commerce” within the meaning of the ICFA, 815 ILCS 505/1(f).

93. Plaintiff and members of the putative ICFA Class are “consumers” as defined in the ICFA, 815 ILCS 505/1(e) and have been harmed by Defendant’s unconscionable, deceptive, and unfair acts and practices in charging the illegitimate “environmental & regulatory charge”, “container service fee”, and “quarterly administrative fee.”

94. Plaintiff and members of the putative ICFA Class have standing under the ICFA as Plaintiff is an Illinois limited liability corporation, Defendant’s principal place of business is in Illinois, and the improper and wrongful conduct emanated from Defendant’s home office in

Illinois.

95. Defendant's misleading and deceptive scheme to implement and charge its customers the Fees was devised at Defendant's home office in Illinois. Such deceptive scheme included the uniform billing practice of charging Defendant's customers the misrepresented and deceptive Fees. Such practice was done with the intent to deceive Plaintiff and members of the putative ICFA Class and was the proximate cause of injury to Plaintiff and putative ICFA Class Members.

96. To state a cause of action under the Illinois Consumer Fraud Act, "plaintiff must allege: (1) a deceptive act or practice; (2) the defendant intended for the plaintiff to rely on the deception; and (3) that the deception occurred in the course of conduct involving trade or commerce." *Bernhauser v. Glen Ellyn Dodge, Inc.*, 288 Ill. App. 3d 984, 986 (1997). Plaintiff has adequately established a cause of action under the ICFA, as set out herein.

97. In violation of the ICFA, Defendant has engaged in deceptive acts and practices by charging the illegitimate Fees in a uniform manner to Plaintiff and each ICFA Class member. Defendant has violated the ICFA by illegitimately charging and collecting the Fees as set out herein. In doing so, Defendant has misled and deceived Plaintiff and every ICFA Class member as to the true nature of the uniformly applied Fees.

The "environmental & regulatory charge"

98. Defendant deceives its customers by representing and/or implying that the "environmental & regulatory charge" is a legitimate charge directly related to Defendant's environmental and regulatory costs. Defendant's representations, omissions, and practices in charging the illegitimate "environmental & regulatory charge" are deceptive and unfair, and create the false pretense that the fee is legitimately charged to recover Defendant's actual or increased

environmental or regulatory costs, in violation of the ICFA, 815 ILCS 505/2. It is eminently reasonable to conclude that a charge titled “environmental & regulatory charge” would in fact be charged to recover Defendant’s actual or increased environmental and regulatory costs.

99. However, Defendant has not performed any calculations or cost analysis to determine whether the amount of the “environmental & regulatory charge” bears any relation to the actual environmental or regulatory costs incurred by Defendant in servicing its customers. Additionally, Defendant knows when it enters into service agreements with its customers that it will charge a much higher amount on the monthly invoices than the agreed upon service amount (via the “environmental & regulatory charge”), a fact Defendant does not disclose to its customers.

100. Among the misrepresentations Defendant makes to Plaintiff and ICFA Class members in furtherance of this deceptive scheme is the naming of the fee itself. The term “environmental & regulatory charge” is deceptive because it is, in fact, neither related to Defendant’s actual or increased environmental or regulatory costs nor charged as an offset for any such environmental or regulatory costs imposed on Defendant by federal, state, or local laws and regulations. Nevertheless, through the use of this misleading term, Defendant has deceived and misled Plaintiff and members of the ICFA Class to their detriment in that the improper fee serves no purpose other than to increase Defendant’s profits and because such improper fee is misrepresented, employed under a false pretense, excessive, unconscionable, and deceptive, as set out herein.

101. Specifically, Defendant’s deceptive and unfair practices directed toward Plaintiff and ICFA Class members include:

- a. Defendant’s failure to disclose that the amount Defendant’s charge for the “environmental & regulatory charge” is unconscionable and excessive;

- b. Defendant's representation that the "environmental & regulatory charge" is directly related to its actual or increased environmental and regulatory costs;
- c. Defendant's failure to disclose that the "environmental & regulatory charge" is not used to offset its actual or increased environmental and regulatory costs;
- d. Defendant's failure to disclose that the "environmental & regulatory charge" does not fluctuate as Defendant's environmental and regulatory costs fluctuate;
- e. Defendant's representation that the "environmental & regulatory charge" is actually an environmental & regulatory charge;
- f. Defendant's failure to disclose that the "environmental & regulatory charge" has nothing to do with Defendant's actual or increased environmental and regulatory costs;
- g. Defendant's failure to disclose to its customers that it is recovering for the same alleged costs multiple times; and
- h. Defendant's failure to disclose that Defendant's actual or increased environmental and regulatory costs are not a factor in Defendant's "environmental & regulatory charge" calculation, or that no such calculation is in fact performed.

102. Defendant's deceptive and unfair practices, including the misrepresentations and omissions as set out herein, are likely to mislead reasonable consumers under the circumstances.

103. Defendant's actions or inactions directed toward Plaintiff and members of the ICFA Class are also unfair. Such actions or inactions include:

- a. Plaintiff and members of the putative ICFA Class paying for the same alleged costs multiple times;
- b. Paying excessive and unconscionable amounts for the "environmental & regulatory charge";

- c. Paying an “environmental & regulatory charge” under the false pretense that it is related to Defendant’s actual or increased environmental and regulatory costs;
- d. Paying an “environmental & regulatory charge” which bears no relation to Defendant’s actual or increased environmental and regulatory costs;
- e. Paying an “environmental & regulatory charge” which Defendant represents is legitimate, but in fact is not;
- f. Paying an “environmental & regulatory charge” which does not include or account for in any way Defendant’s actual or increased costs in the calculation of such fee; and
- g. Paying an “environmental & regulatory charge” when Defendant’s actual environmental and regulatory costs decrease.

104. Defendant’s practices as set out herein, including the practice of calling the “environmental & regulatory charge” something that it was not with the intent of improperly obtaining money from its customers who could not have known otherwise, are deceptive, unconscionable, and unfair. Such practices were done with the intent to deceive Plaintiff and ICFA Class members and were the proximate cause of injury to Plaintiff and ICFA Class members. As a result of the deceptive, unconscionable, and unfair practices described herein, Plaintiff and each ICFA Class member paid the improper “environmental & regulatory charge” to its detriment.

The “Container Service Fee” and “Quarterly Administrative Fee”

105. Defendant’s charging and collecting of the “container service fee” and “quarterly administrative fee” is also deceptive and unfair, and Defendant has made misleading statements regarding such Fees in violation of the Illinois’ Consumer Fraud and Deceptive Trade Practice Act, 815 ILCS 505/1 et seq. (“ICFA”).

106. Defendant misrepresents, and fails to disclose, material facts regarding the nature,

purpose, and effect of such Fees to Plaintiff and class members. In fact, the terms “container service fee” and “quarterly administrative fee” are themselves a misrepresentation as these Fees are neither charged to recover Defendant’s increased container servicing or administrative costs nor are they charged to offset Defendant’s actual or increased container, or administrative costs.

107. Defendant’s naming of the Fees is not accidental. Defendant chose these terms intentionally to create the false pretense that the Fees are legitimate charges directly related to the specific container servicing and administrative costs Defendant incurs in providing service to its customers. By using the terms “container service fee” and “quarterly administrative fee” - terms which Defendant has uniformly used on every invoice received by every class member charged these Fees - Defendant falsely represents that these Fees are directly related to its actual or increased container servicing and administrative costs.

108. This practice was done with the intent to deceive Plaintiff and ICFA Class members and was the proximate cause of injury to Plaintiff and ICFA Class members.

109. Among the misrepresentations Defendant makes to Plaintiff and ICFA Class members in furtherance of this deceptive scheme is the naming of the Fees themselves. The terms “container servicing fee” and “quarterly administrative fee” are deceptive because they are, in fact, neither related to Defendant’s (respective) actual or increased container servicing or administrative costs nor charged as an offset for any such costs. Nevertheless, through the use of this misleading terms, Defendant has deceived and misled Plaintiff and members of the ICFA Class to their detriment in that the improper Fees serve no purpose other than to increase Defendant’s profits and because such improper Fees are misrepresented, employed under a false pretense, excessive, unconscionable, and deceptive, as set out herein.

110. Specifically, Defendant’s deceptive and unfair practices directed toward Plaintiff

and ICFA Class members include:

- i. Defendant's failure to disclose that the amount Defendant's charge for the Fees are unconscionable and excessive;
- j. Defendant's representation that the Fees are directly related to its (respective) actual or increased container servicing and administrative costs;
- k. Defendant's failure to disclose that the Fees are not used to offset its (respective) actual or increased container servicing and administrative costs;
- l. Defendant's failure to disclose that the Fees do not fluctuate as Defendant's (respective) container servicing and administrative costs fluctuate;
- m. Defendant's representation that the "container servicing fee" is actually a container servicing fee;
- n. Defendant's representation that the "quarterly administrative fee" is actually an administrative fee;
- o. Defendant's failure to disclose that the Fees have nothing to do with Defendant's (respective) container servicing and administrative costs;
- p. Defendant's failure to disclose to its customers that it is recovering for the same alleged costs multiple times; and
- q. Defendant's failure to disclose that Defendant's (respective) actual or increased container servicing and administrative costs are not a factor in Defendant's calculation of the Fees, if any calculation is in fact performed.

111. Defendant's deceptive and unfair practices, including the misrepresentations and omissions as set out herein, are likely to mislead reasonable consumers under the circumstances.

112. Defendant's actions or inactions directed toward Plaintiff and members of the ICFA

Class are also unfair. Such actions or inactions include:

- h. Plaintiff and members of the putative ICFA class paying for the same alleged costs multiple times;
- i. Paying excessive and unconscionable amounts for the Fees;
- j. Paying the Fees under the false pretense that it they are related to Defendant's (respective) actual or increased container servicing and administrative costs;
- k. Paying Fees which bears no relation to Defendant's (respective) actual or increased container servicing and administrative costs;
- l. Paying Fees which Defendant represents are legitimate, but in fact are not;
- m. Paying Fees which do not include Defendant's actual or increased costs in the calculation of such Fees; and
- n. Paying Fees when Defendant's actual container servicing and administrative costs decrease.

113. Defendant's practices as set out herein, including the practice of calling the Fees something that they were not with the intent of improperly obtaining money from its customers who could not have known otherwise, are deceptive, unconscionable, and unfair. Such practices were done with the intent to deceive Plaintiff and ICFA Class members and were the proximate cause of injury to Plaintiff and ICFA Class members. As a result of the deceptive, unconscionable, and unfair practices described herein, Plaintiff and each ICFA Class member paid the improper Fees to its detriment.

114. Defendant's conduct as described herein implicates consumer protection generally. Specifically, on Defendant's invoices including, but not limited to, the invoices attached to this First Amended Complaint for Plaintiff BBJL's properties located at 740 S. California Avenue and

1122 S. California Avenue, Defendant deceived, misled, misrepresented, and failed to disclose the facts set out herein with regard to the “environmental & regulatory charge”, the “container service fee”, and the “quarterly administrative fee.” As a result, Plaintiff and putative class members paid each of these invoices, including the Fees.

WHEREFORE, Plaintiff and members of the ICFA Class pray this Court certify the class identified herein, enter judgment in their favor and against Defendant, award compensatory damages in an amount in excess of \$50,000.00, plus costs incurred in bringing this suit, recovery of Plaintiffs’ attorneys’ fees, and grant such other and further relief as the Court deems appropriate. Plaintiff further demands all remedies and damages available under the ICFA.

PRAYER FOR RELIEF

Plaintiff and members of each class request that the Court order the following relief and enter judgment against Defendant as follows:

- a. An Order certifying each proposed class under 735 ILCS 5/2-801 of the Illinois Code of Civil Procedure and appointing Plaintiff and its counsel to represent each class;
- b. A declaration that the practices described herein constitute deceptive trade practices in violation of Section 815 ILCS 505/1, *et seq*;
- c. An award of attorneys’ fee and costs of bringing this action pursuant to Section 815 ILCS 505/1, *et seq*;
- d. Return of all illegitimate, unconscionable, and/or excessive Fee amounts paid by Plaintiff and class members;
- e. A judgment awarding Plaintiff and members of each proposed class all monies paid for the Fees, plus interest, or in the alternative the excessive portions of the amounts paid for the Fees, plus interest;

- f. Pre-judgment and post-judgment interest to Plaintiff and members of each proposed class; and
- g. All other relief that the Court deems necessary, just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury for all causes herein so triable.

Dated: September 4, 2019

Respectfully Submitted,

BBJL PROPERTIES, LLC

By: /s/ Patrick C. Marshall
One of its attorneys

METHVIN TERRELL,
YANCEY, STEPHENS & MILLER, P.C.
Robert G. Methvin, Jr. (IL #6320044)
James M. Terrell (IL #6325973)
Patrick C. Marshall (IL #6321858)
2201 Arlington Avenue South
Birmingham, Alabama 35205
T: (205) 939-0199
F: (205) 939-0399
pmarshall@mtattorneys.com
jterrell@mtattorneys.com
rgm@mtattorneys.com

Patrick J. Keating [IL #6211380]
KEATING LAW LLC
2052 Ridge Road
Homewood Illinois 60430
(312) 818-1940 Office
(312) 933-4539 Mobile
patrick@keating.law

Derek Y. Brandt [IL #6228895]
MCCUNE, WRIGHT AREVALO, LLP
P.O. Box 487
Edwardsville, Illinois 62025
T: (618) 307-6116
derek@mccunewright.com

Cook County Firm ID: 61233

**Attorneys for Plaintiff and Putative Class
Members**

FILED DATE: 9/4/2019 11:56 AM 2017CH02318

CERTIFICATE OF SERVICE

I hereby certify that on this the 4th day of September, 2019, I have served a copy of the above and foregoing upon the following counsel of record through electronic filing (e-filing):

Kevin M. O'Hagan
Sean Rohan
O'Hagan Meyer
One E. Wacker Drive, Suite 3400
Chicago, Illinois 60601
kohagan@ohaganmeyer.com
srohan@ohaganmeyer.com

Attorneys for Defendant

/s/ Patrick C. Marshall
Patrick C. Marshall (IL #6321858)

Exhibit A

FILED DATE: 9/4/2019 11:56 AM 2017CH02318



Flood Brothers

AGREEMENT

17 W 697 Butterfold Road, Oakbrook Terrace, IL 60181
830.261.0400
floodbrothersdisposal.com

№ 53336

DISPOSAL/RECYCLING SERVICES

Consumer's Name 740 S. California LLC

Manager/Owner Jon Levy

Service Address 740 S. California Ave.

City Chicago County Cook IL Zip Code 60612

Phone Number 1-773-680-1481 FAX 1-

Billing Address (same as Service Address) 2117 W. Rice # 1E

City of Chicago Other Chicago IL

IL Zip Code 60622

Home Phone 1-773-680-1481 Bank Reference _____

Email levy2@hotmail.com Paperless eBill Yes No

Legal Business Name (if different) RBJL Properties

Terms of Agreement Dates 7/1/2014

<input checked="" type="checkbox"/> New Account	<input type="checkbox"/> Account Change
<input type="checkbox"/> New Site	<input type="checkbox"/> Reinstate
<input type="checkbox"/> Increase	<input type="checkbox"/> Decrease

Types of Business		SIC Code _____
<input checked="" type="checkbox"/> Apt. # of Units <u>6</u>	<input type="checkbox"/> Landscaping	
<input type="checkbox"/> Condo # of Units _____	<input type="checkbox"/> Liquor Store	
<input type="checkbox"/> Bar/Tavern	<input type="checkbox"/> Medical	
<input type="checkbox"/> Auto	<input type="checkbox"/> Office Building	
<input type="checkbox"/> Financial	<input type="checkbox"/> Printing	
<input type="checkbox"/> Construction	<input type="checkbox"/> Residential	
<input type="checkbox"/> Grocery/Food	<input type="checkbox"/> Restaurant	
<input type="checkbox"/> Cleaning	<input type="checkbox"/> Retail	
<input type="checkbox"/> Hotel	<input type="checkbox"/> Municipal/Govt.	
<input type="checkbox"/> Industrial	<input type="checkbox"/> Other _____	

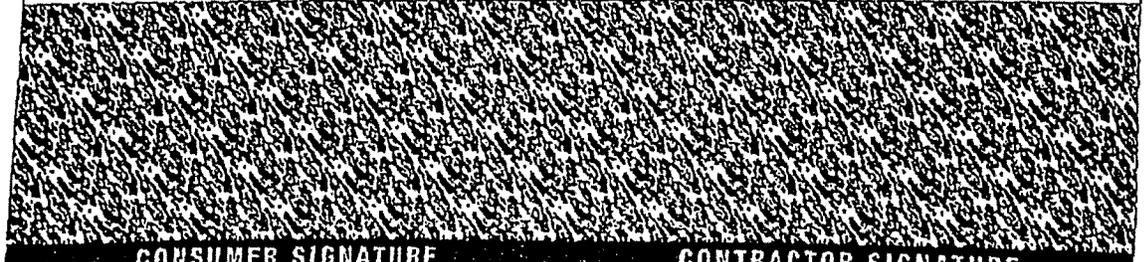
ADD: Lock/Chain/Cable

EQUIPMENT, SERVICE AND SCHEDULE OF CHARGES

Container Size & Quantity <input checked="" type="checkbox"/> Garbage: <input type="checkbox"/> Rear <input type="checkbox"/> Front <input type="checkbox"/> Dock <input type="checkbox"/> Roll-off	1 _____ 2 _____ 4 _____ 6 _____ 10 _____ 95 _____ 1 1/2 _____ 4 _____ 8 _____ RD _____ Other _____	<input type="checkbox"/> 1X <input checked="" type="checkbox"/> 2X <input type="checkbox"/> 3X <input type="checkbox"/> 4X <input type="checkbox"/> 5X <input type="checkbox"/> 6X <input type="checkbox"/> 7X
<input type="checkbox"/> Recycling: <input type="checkbox"/> Rear <input type="checkbox"/> Front <input type="checkbox"/> Dock <input type="checkbox"/> Roll-off	1 _____ 2 _____ 4 _____ 6 _____ 10 _____ 95 _____ 1 1/2 _____ 4 _____ 8 _____ RD _____ Other _____	<input type="checkbox"/> 1X <input type="checkbox"/> 2X <input type="checkbox"/> 3X <input type="checkbox"/> 4X <input type="checkbox"/> 5X <input type="checkbox"/> 6X <input type="checkbox"/> 7X

request weekly - Thursdays pick up

Service Charge Per Billing Period (minimum)	Garbage: \$ <u>120</u>	Recycling: \$ _____	Food/Compost: \$ _____	TOTAL: \$ <u>120 + ENV.</u>	Chicago Per.
Extra Pick-Up Per Yard	\$ _____	Total \$ _____ each	Lock & Cable(s) \$10.00 each per bill		
Ticket Stop	\$ _____ per yard	\$ _____ per ton	Delivery \$95.00 (1x Fee)		



CONSUMER SIGNATURE

CONTRACTOR SIGNATURE

X Jonathan Levy Flood Representative Chris Flood
 Print Jonathan Levy Print Chris Flood
 Title _____ Title SUE
 Date 6/16/2014 Date 6/17/2014

THE TERMS AND CONDITIONS ON THE REVERSE SIDE ARE PART OF THIS AGREEMENT. PLEASE READ THE REVERSE SIDE AND ACKNOWLEDGE ACCEPTANCE.
 YOU AGREE THAT A FACSIMILE COPY OF THIS AGREEMENT BEARING SIGNATURES MAY BE TREATED AS ORIGINAL.
 CUSTOMER ACKNOWLEDGES THAT THEY DO NOT HAVE A CONTRACT WITH ANOTHER SOLID WASTE VENDOR.
 IF CUSTOMER HAS PREVIOUS AGREEMENT WITH VENDOR, CUSTOMER WILL WITHOUT AGREEMENT OR SIGN FUTURE SERVICE AGREEMENT.
 THIS IS AN AUTOMATIC RENEWABLE CONTRACT.

Pay on-line at:
www.floodbrothersdisposal.com

OFFICE COPY

4/14

DEFT 00003

**EXCLUSIVE NON-HAZARDOUS WASTE REMOVAL/ RECYCLING SERVICES AGREEMENT
T E R M S A N D C O N D I T I O N S**

CONTRACTOR'S DUTIES. The equipment provided by Contractor is done so for Contractor's convenience in providing the service called for by this agreement. Contractor shall collect and dispose of waste materials (garbage, trash, and other solid refuse) of the Customer and all compostable material, organic, recyclable products and commodities at the service address and location or relocation address, at the frequency of service indicated. After notice given to it by the Customer, Contractor shall make any necessary repairs to the containers furnished for use by Customer and shall replace the containers when the containers are no longer fit for the purpose intended.

CUSTOMER'S DUTIES. The containers shall be in the possession and control of the Customer. Customer shall be responsible for the cleanliness and safekeeping of the containers and also access to the containers. "Access" includes keeping the path to the containers free of snow and ice. If the equipment is blocked to prohibit collection, Contractor will make an additional attempt for collection. Any additional collections will be classified an "extra pickup" and so duly charged. Customer agrees to hold harmless and indemnify Contractor against all claims, lawsuits and any other liability for injury to persons or damage to property or the environment arising out of the possession or use of the containers by the Customer. All containers furnished by the Contractor for use by the Customer shall remain the property of the Contractor and the Customer shall have no right, title or interest in them. Customer shall not make any alterations or improvements without the prior written consent of the Contractor. Customer warrants that the equipment will only be level filled. Customer shall not overload the containers nor use them for incineration purposes and shall be liable to Contractor for loss or damage in excess of reasonable wear and tear. Customer shall not load container with yard wastes (grass, leaves, branches) as per State of Illinois statute nor shall customer dispose of tires. Customer agrees not to overload (By weight or volume) and shall be liable for any overweight fines. Non-collusion—Contractor agrees not to enter into agreement with competitors, trade association or individuals for the purpose of controlling rates or limiting competition. Customer agrees not to accept or agree to national stock companies predatory pricing policies. Contractor shall not be responsible for damage to any fence, barricade, or other structure which encloses containers within 10 feet of containers. Contractor may, but shall not be required to carry keys or gate openers to access Customer's containers. Contractor may assess a fee for the purchase of, and a periodic fee for the use of locks, chains, cables, and keys, and shall not be responsible for gates left open or damage to or loss of keys or gate openers. Contractor shall not be liable for any damages to pavement, curbing, walkways, yard, driving surface or accompanying subsurface resulting from its trucks servicing an agreed upon area. Customer is responsible for separation of any compostable, organic and recyclable materials at the service location as per contractor's need and/or municipal requirement. Customer agrees to pay Contractor container delivery for any extra waste collected in the immediate area of the equipment, at the extra yardage fee in effect. Further, recyclables contaminated with other items will be disposed of at the extra yardage rate. Customer warrants that waste delivered to Contractor hereunder will not contain any flammable, hazardous or toxic waste as defined by local, State, Federal, or provincial laws or regulations. Customer grants to Contractor the exclusive right to collect all waste and recyclable materials. Contractor acquires title to the materials when loaded into Contractor's vehicles provided however, that title to and liability for the waste materials excluded from this agreement shall remain with the customer.

PRICE AND PAYMENT. Customer shall pay Contractor for each scavenger period (4 week period) basis for the collection and disposal service provided by the Contractor (including all charges for container use and maintenance) in accordance with the schedule of charges shown on the reverse side. Payments shall be made by Customer within ten (10) days after the receipt of an invoice from the Contractor. Contractor may impose, and customer agrees to pay, a late fee for all past due payments and an additional fee, if a Flood employee must collect monies in person. Contractor reserves the right to suspend service until payment is made in full without prejudice to any of company's other rights. Contractor also has the right to assess a \$25.00 reinstatement fee. Suspension of service or removal of equipment due to non-payment shall not constitute termination of this agreement by company. Since sanitary landfill, disposal charges and processing fees to which Contractor is subject are a significant cost of the service provided, Contractor may increase the unit price of the collection services provided the Customer in an amount equal to any equivalent unit increase in disposal or processing costs to which Contractor is subjected including increases in transportation costs due to changes in location of the disposal facility and proportionately pass through to the customer increases in the average weight per container yard of the Customer's Waste Materials. Contractor has the right to raise the rate at any time based on the type and weight of material. Contractor may provide thirty (30) days written notice of the price change due to increased disposal or processing cost, which may be shown in adding weight. The Schedule of Charges may be adjusted from time to time to reflect increases in the Consumer Price Index since the last adjustment (or since the date of execution of this agreement for the first adjustment). The Schedule of Charges may be adjusted for reasons other than increases in disposal or fuel costs or the Consumer Price Index, subject to approval by Customer. Customer shall be liable for all taxes, fees, or other charges imposed by federal, state or local laws and regulations upon the collection, transportation, or disposal of customer's waste materials or the service performed hereunder.

CHANGES. Changes in the frequency of collection service, number, capacity and type of container may be agreed to orally or in writing by the parties. Consent to oral changes shall be evidenced by the actions and practices of the parties. This agreement shall continue in effect for the term provided for herein and shall apply to changes of service address, location or additional service locations of the Customer within the area in which the Contractor provides collection service.

TERM. This agreement including any agreed changes shall automatically be for a minimum period of five (5) years and shall be automatically renewed for successive five (5) year periods unless either party shall give written notice of termination to the other not more than 180 days, not less than 90 days prior to the termination date by certified mail. Contractor agrees that if Customer no longer requires any collection and disposal service for its waste materials, Customer may terminate this agreement upon written notice given to the Contractor not more than 180 days, not less than 90 days prior to the intended termination date upon payment of all amounts due Contractor. In the event that Customer wishes to terminate this Agreement for any other reason, he may do so provided that he provides Contractor ninety (90) days written notice and pays Contractor six (6) months, or billing periods service charges as a cancellation fee to be determined on the basis of the average of the latest six (6) months, or billing periods invoices during the existence of this service agreement. This agreement is not cancellable or terminable in any other manner other than that provided for herein, unless by a separate agreement in writing and signed by both parties. In the event Customer has existing service agreement with another vendor at the time of executing this service agreement, the commencement date of the agreement shall be at the termination of such vendors agreement without allowance for any renewals thereof. If the customer wishes to buy out of this agreement, customer may do so because of a previous agreement for a seven hundred dollar (\$700) fee made payable to Flood Brothers.

EXCUSABLE DELAY: Except for payment obligations, performances by either party shall be excused or postponed when delays arise out of a cause beyond the control, fault or negligence of the party whose performance is being excused or postponed. Such causes may include, but are not limited to, acts of God or the public enemy, government action or failure to act, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, wars, civil disturbances, power failures, laws, regulations, ordinances and other acts of unusually severe weather.

ASSIGNMENT/BINDING EFFECT. Customer may not assign its rights and or obligations under this Agreement without the prior written consent of Contractor, which consent may be withheld is Contractor's sole discretion. This agreement is a legally binding contract on the part of the Contractor and Customer and their respective heirs, representatives, successors and assigns in accordance with the terms and conditions set out herein. If any term or provision of the contract is declared invalid or unenforceable, all other terms and provisions shall remain in full force and effect to the fullest extent permitted by law.

ATTORNEY'S FEES. In the event of any customer default of this Agreement, Contractor shall be entitled to reasonable attorney's fees and all costs in addition to any other amounts due it pursuant to this Agreement (which includes, but is not limited to, a customer's attempt to terminate, or failure to pay).

—Flood Brothers Disposal and Recycling Service.

Exhibit B

To: Chris
From: Tom Levy 773-680-1481



Flood Brothers * AGREEMENT

17 W 051 Butterfield Road, Oakbrook Terrace, IL 60181
830.261.9700
floodbrothersdisposal.com

No 55966

DISPOSAL/RECYCLING SERVICES

<input type="checkbox"/> New Account	<input type="checkbox"/> Account Change
<input type="checkbox"/> New Site	<input type="checkbox"/> Reinstatement
<input type="checkbox"/> Increase	<input type="checkbox"/> Decrease

Consumer's Name 740 S. California LLC
 Manager/Owner Tom Levy
 Service Address 740 S. California Ave.
 City Chicago County Cook IL Zip Code 60613
 Phone Number 773-680-1481 FAX -
 Billing Address (Same as Service Address) 217 W Rice Unit 1E
 City of Chicago Other
 IL Zip Code 60622
 Home Phone 773-680-1491 Bank Reference _____
 Email Levy23@hotmail.com Paperless Bill? Yes No
 Log. of Business Name (if different) BBJL Properties
 Terms of Agreement under 7/1/2016 7/1/17

Type of Business	SIC Code
<input type="checkbox"/> Apt.	<input type="checkbox"/> Landscaping
<input type="checkbox"/> # of Units	<input type="checkbox"/> Liquor Store
<input type="checkbox"/> Census	<input type="checkbox"/> Medical
<input type="checkbox"/> # of Units	<input type="checkbox"/> Office Building
<input type="checkbox"/> Bar/ Tavern	<input type="checkbox"/> Printing
<input type="checkbox"/> Auto	<input type="checkbox"/> Residential
<input type="checkbox"/> Financial	<input type="checkbox"/> Restaurant
<input type="checkbox"/> Construction	<input type="checkbox"/> Retail
<input type="checkbox"/> Grocery/Food	<input type="checkbox"/> Wholesale/Govt.
<input type="checkbox"/> Cleaning	<input type="checkbox"/> Other
<input type="checkbox"/> Hotel	
<input type="checkbox"/> Industrial	

EQUIPMENT, SERVICE AND SCHEDULE OF CHARGES

Container Size & Quantity	1	2	4	6	10	95	1X	2X	3X	4X	5X	6X	7X
Garbage: <input checked="" type="checkbox"/> Rear <input type="checkbox"/> Front <input type="checkbox"/> Deck <input type="checkbox"/> Roof													
Recycling: <input type="checkbox"/> Rear <input type="checkbox"/> Front <input type="checkbox"/> Deck <input type="checkbox"/> Roof													

- Pick Up Container

Service Charge Per Billing Period	Garbage: \$ <u>120</u>	Recycling: \$ _____	Food/Compost: \$ _____	TOTAL: \$ <u>120</u>	Chicago Fee
Extra Pick-Up Per Yard	\$ _____	Tax: \$ _____ each	Lock & Cabinet: \$10.00 each per ha		
Ticket Stop	\$ _____	Delivery: \$50.00 per ha			



CONSUMER SIGNATURE

CONTRACTOR SIGNATURE

X _____ Tom Levy Flood Representative
 Print Tom Levy Print Chris Elson
 Title President/owner Title owner
 Date 7/14/2014 Date 7/16/2014

THE TERMS AND CONDITIONS ON THE REVERSE SIDE ARE PART OF THIS AGREEMENT. PLEASE READ THE REVERSE SIDE AND ACKNOWLEDGE ACCEPTANCE.
 YOU AGREE THAT A PHOTOCOPY OF THIS AGREEMENT LEAVING SIGNATURES MAY BE TREATED AS ORIGINAL.
 CUSTOMER ACKNOWLEDGES THAT THEY DO NOT HAVE A CONTRACT WITH ANY OTHER SOLID WASTE VENDOR.
 IF CUSTOMER HAS PREVIOUS AGREEMENT WITH VENDOR, CUSTOMER WILL NOTIFY AGREEMENT ON EACH FUTURE SERVICE AGREEMENT.
 THIS IS AN AUTOMATIC RENEWABLE CONTRACT.

Pay on-line at:
www.floodbrothersdisposal.com

OFFICE COPY

4/14

**EXCLUSIVE NON-HAZARDOUS WASTE REMOVAL/ RECYCLING SERVICES AGREEMENT
T E R M S A N D C O N D I T I O N S**

CONTRACTOR'S DUTIES. The equipment provided by Contractor is done so for Contractor's convenience in providing the service called for by this agreement. Contractor shall collect and dispose of waste materials (garbage, trash, and other solid refuse) of the Customer and all compostable material, organic, recyclable products and commodities at the service address and location or relocation address, at the frequency of service indicated. After notice given to it by the Customer, Contractor shall make any necessary repairs to the containers furnished for use by Customer and shall replace the containers when the containers are no longer fit for the purpose intended.

CUSTOMER'S DUTIES. The containers shall be in the possession and control of the Customer. Customer shall be responsible for the cleanliness and safekeeping of the containers and also access to the containers. "Access" includes keeping the path to the containers free of snow and ice. If the equipment is blocked to prohibit collection, Contractor will make an additional attempt for collection. Any additional collections will be classified an "extra pickup" and so duly charged. Customer agrees to hold harmless and indemnify Contractor against all claims, lawsuits and any other liability for injury to persons or damage to property or the environment arising out of the possession or use of the containers by the Customer. All containers furnished by the Contractor for use by the Customer shall remain the property of the Contractor and the Customer shall have no right, title or interest in them. Customer shall not make any alterations or improvements without the prior written consent of the Contractor. Customer warrants that the equipment will only be level filled. Customer shall not overload the containers nor use them for incineration purposes and shall be liable to Contractor for loss or damage in excess of reasonable wear and tear. Customer shall not load container with yard wastes (grass, leaves, branches) as per State of Illinois statute nor shall customer dispose of tires. Customer agrees not to overload (By weight or volume) and shall be liable for any overweight fines. Non-collision—Contractor agrees not to enter into agreement with competitors, trade association or individuals for the purpose of controlling rates or limiting competition. Customer agrees not to accept or agree to national stock companies predatory pricing policies. Contractor shall not be responsible for damage to any fence, barricade, or other structure which encloses containers within 10 feet of containers. Contractor may, but shall not be required to carry keys or gate openers to access Customer's containers. Contractor may assess a fee for the purchase of, and a periodic fee for the use of locks, chains, cables, and keys, and shall not be responsible for gates left open or damage to or loss of keys or gate openers. Contractor shall not be liable for any damages to pavement, curbing, walkways, yard, driving surface or accompanying subsurface resulting from its trucks servicing an agreed upon area. Customer is responsible for separation of any compostable, organic and recyclable materials at the service location as per contractor's need and/or municipal requirement. Customer agrees to pay Contractor container delivery for any extra waste collected in the immediate area of the equipment, at the extra yardage fee in effect. Further, recyclables contaminated with other items will be disposed of at the extra yardage rate. Customer warrants that waste delivered to Contractor hereunder will not contain any flammable, hazardous or toxic waste as defined by local, State, Federal, or provincial laws or regulations. Customer grants to Contractor the exclusive right to collect all waste and recyclable materials. Contractor acquires title to the materials when loaded into Contractor's vehicles provided however, that title to and liability for the waste materials excluded from this agreement shall remain with the customer.

PRICE AND PAYMENT. Customer shall pay Contractor for each scavenger period (4 week period) basis for the collection and disposal service provided by the Contractor (including all charges for container use and maintenance) in accordance with the schedule of charges shown on the reverse side. Payments shall be made by Customer within ten (10) days after the receipt of an invoice from the Contractor. Contractor may impose, and customer agrees to pay, a late fee for all past due payments and an additional fee, if a Flood employee must collect monies in person. Contractor reserves the right to suspend service until payment is made in full without prejudice to any of company's other rights. Contractor also has the right to assess a \$25.00 reinstatement fee. Suspension of service or removal of equipment due to non-payment shall not constitute termination of this agreement by company. Since sanitary landfill, disposal charges and processing fees to which Contractor is subject are a significant cost of the service provided, Contractor may increase the unit price of the collection services provided the Customer in an amount equal to any equivalent unit increase in disposal or processing costs to which Contractor is subjected including increases in transportation costs due to changes in location of the disposal facility and proportionately pass through to the customer increases in the average weight per container yard of the Customer's Waste Materials. Contractor has the right to raise the rate at any time based on the type and weight of material. Contractor may provide thirty (30) days written notice of the price change due to increased disposal or processing cost, which may be shown in adding weight. The Schedule of Charges may be adjusted from time to time to reflect increases in the Consumer Price Index since the last adjustment (or since the date of execution of this agreement for the first adjustment). The Schedule of Charges may be adjusted for reasons other than increases in disposal or fuel costs or the Consumer Price Index, subject to approval by Customer. Customer shall be liable for all taxes, fees, or other charges imposed by federal, state or local laws and regulations upon the collection, transportation, or disposal of customer's waste materials or the service performed hereunder.

CHANGES. Changes in the frequency of collection service, number, capacity and type of container may be agreed to orally or in writing by the parties. Consent to oral changes shall be evidenced by the actions and practices of the parties. This agreement shall continue in effect for the term provided for herein and shall apply to changes of service address, location or additional service locations of the Customer within the area in which the Contractor provides collection service.

TERM. This agreement including any agreed changes shall automatically be for a minimum period of five (5) years and shall be automatically renewed for successive five (5) year periods unless either party shall give written notice of termination to the other not more than 180 days, not less than 90 days prior to the termination date by certified mail. Contractor agrees that if Customer no longer requires any collection and disposal service for its waste materials, Customer may terminate this agreement upon written notice given to the Contractor not more than 180 days, not less than 90 days prior to the intended termination date upon payment of all amounts due Contractor. In the event that Customer wishes to terminate this Agreement for any other reason, he may do so provided that he provides Contractor ninety (90) days written notice and pays Contractor six (6) months, or billing periods service charges as a cancellation fee to be determined on the basis of the average of the latest six (6) months, or billing periods invoices during the existence of this service agreement. This agreement is not cancelable or terminable in any other manner other than that provided for herein, unless by a separate agreement in writing and signed by both parties. In the event Customer has existing service agreement with another vendor at the time of executing this service agreement, the commencement date of the agreement shall be at the termination of such vendors agreement without allowance for any renewals thereof. If the customer wishes to buy out of this agreement, customer may do so because of a previous agreement for a seven hundred dollar (\$700) fee made payable to Flood Brothers.

EXCUSABLE DELAY: Except for payment obligations, performances by either party shall be excused or postponed when delays arise out of a cause beyond the control, fault or negligence of the party whose performance is being excused or postponed. Such causes may include, but are not limited to, acts of God or the public enemy, government action or failure to act, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, wars, civil disturbances, power failures, laws, regulations, ordinances and other acts of unusually severe weather.

ASSIGNMENT/BINDING EFFECT. Customer may not assign its rights and or obligations under this Agreement without the prior written consent of Contractor, which consent may be withheld in Contractor's sole discretion. This agreement is a legally binding contract on the part of the Contractor and Customer and their respective heirs, representatives, successors and assigns in accordance with the terms and conditions set out herein. If any term or provision of the contract is declared invalid or unenforceable, all other terms and provisions shall remain in full force and effect to the fullest extent permitted by law.

ATTORNEY'S FEES. In the event of any customer default of this Agreement, Contractor shall be entitled to reasonable attorney's fees and all costs in addition to any other amounts due it pursuant to this Agreement (which includes, but is not limited to; a customer's attempt to terminate, or failure to pay).

—Flood Brothers Disposal and Recycling Service.

Exhibit C



Flood Brothers

AGREEMENT

714 W. Eisenhower Blvd., Oakbrook Terrace, IL 60101
630 261 0100
floodbrothersdisposal.com

No 54439

DISPOSAL/RECYCLING SERVICES

Consumer's Name BSL Properties, LLC
 Manager/Owner Joe Levy
 Service Address 1122 S. California
 City Chicago County Cook IL Zip Code 60612
 Phone Number 1-773-680-1481 FAX 1-
 Billing Address (same as Service Address) 2117 W. Rice Unit 1E
 City of Chicago Other
 IL Zip Code 60622
 Home Phone 1-773-680-1481 Bank Reference _____
 Email jlevy2@hotmail.com Paperless eBill Yes No
 Legal Business Name (if different) _____
 Terms of Agreement Dates 9 / 10 / 2014 9 / 9 / 15

New Account Account Change
 New Site Reinstate
 Increase Decrease

Type of Business SIC Code

Apt. Landscaping
 # of Units 6 Liquor Store
 Condo Medical
 # of Units _____ Office Building
 Bar/Tavern Printing
 Auto Residential
 Financial Restaurant
 Construction Retail
 Grocery/Food Municipal/Govt.
 Cleaning Other _____
 Hotel Industrial

EQUIPMENT, SERVICE AND SCHEDULE OF CHARGES

Container Size & Quantity					
<input checked="" type="checkbox"/> Garbage:	Rear Front Dock Rolloff	1 2 3 6 10 95	1 1/2 4 6 8 90 Other	<input checked="" type="checkbox"/> 1X	<input type="checkbox"/> 2X <input type="checkbox"/> 3X <input type="checkbox"/> 4X <input type="checkbox"/> 5X <input type="checkbox"/> 6X <input type="checkbox"/> 7X
<input type="checkbox"/> Recycling:	Rear Front Dock Rolloff	1 2 3 6 10 95	1 1/2 4 6 8 90 Other	<input type="checkbox"/> 1X	<input type="checkbox"/> 2X <input type="checkbox"/> 3X <input type="checkbox"/> 4X <input type="checkbox"/> 5X <input type="checkbox"/> 6X <input type="checkbox"/> 7X
Service Charge Per Billing Period	Garbage: \$ <u>30</u>	Recycling: \$ _____	Food/Compost: \$ _____	TOTAL: \$ <u>30 + ENV.</u> <i>Chicago Per.</i>	
Extra Pick-Up Per Yard	\$ _____	Total \$ _____ each	Lock & Cables: \$10.00 each per bill		
Tickle Stop	\$ _____ per yard	\$ _____ per ton	Delivery \$95.00 (16 Feet)		



CONSUMER SIGNATURE		CONTRACTOR SIGNATURE	
<input checked="" type="checkbox"/> <u>Brian Bickhoff</u>	Flood Representative	<u>Chris Elwood</u>	Flood Representative
Print <u>BRIAN BICKHOFF</u>		Print <u>Chris Elwood</u>	
Title <u>MEMBER</u>		Title <u>Sales</u>	
Date <u>9/10/2014</u>		Date <u>9/13/2014</u>	

THE TERMS AND CONDITIONS ON THE REVERSE SIDE ARE PART OF THIS AGREEMENT. PLEASE READ THE REVERSE SIDE AND ACKNOWLEDGE ACCEPTANCE.
 YOU AGREE THAT A FACSIMILE COPY OF THIS AGREEMENT BEARING SIGNATURES MAY BE TREATED AS ORIGINAL.
 CUSTOMER ACKNOWLEDGES THAT THEY DO NOT HAVE A CONTRACT WITH ANOTHER SOLID WASTE VENDOR.
 IF CUSTOMER HAS PREVIOUS AGREEMENT WITH VENDOR, CUSTOMER WILL WITHOUT AGREEMENT ON SIGN FUTURE SERVICE AGREEMENT.
 THIS IS AN AUTOMATIC RENEWABLE CONTRACT.
 Pay on-line at: www.floodbrothersdisposal.com

**EXCLUSIVE NON-HAZARDOUS WASTE REMOVAL / RECYCLING SERVICES AGREEMENT
TERMS AND CONDITIONS**

CONTRACTOR'S DUTIES. The equipment provided by Contractor is done so for Contractor's convenience in providing the service called for by this agreement Contractor shall collect and dispose of waste materials (garbage, trash, and other solid refuse) of the Customer and all compostable material, organic, recyclable products and commodities at the service address and location or relocation address, at the frequency of service indicated After notice given to it by the Customer, Contractor shall make any necessary repairs to the containers furnished for use by Customer and shall replace the containers when the containers are no longer fit for the purpose intended

CUSTOMER'S DUTIES. The containers shall be in the possession and control of the Customer. Customer shall be responsible for the cleanliness and safekeeping of the containers and also access to the containers "Access" includes keeping the path to the containers free of snow and ice If the equipment is blocked to prohibit collection, Contractor will make an additional attempt for collection. Any additional collections will be classified an "extra pickup" and so duly charged Customer agrees to hold harmless and indemnify Contractor against all claims, lawsuits and any other liability for injury to persons or damage to property or the environment arising out of the possession or use of the containers by the Customer. All containers furnished by the Contractor for use by the Customer shall remain the property of the Contractor and the Customer shall have no right, title or interest in them. Customer shall not make any alterations or improvements without the prior written consent of the Contractor. Customer warrants that the equipment will only be level filled. Customer shall not overload the containers nor use them for incineration purposes and shall be liable to Contractor for loss or damage in excess of reasonable wear and tear. Customer shall not load container with yard wastes (grass, leaves, branches) as per State of Illinois statute nor shall customer dispose of tires. Customer agrees not to overload (By weight or volume) and shall be liable for any overweight fines. Non-collision—Contractor agrees not to enter into agreement with competitors, trade association or Individuals for the purpose of controlling rates or limiting competition. Customer agrees not to accept or agree to national stock companies predatory pricing policies Contractor shall not be responsible for damage to any fence, barn, or other structure which encloses containers within 10 feet of containers Contractor may, but shall not be required to carry keys or gate openers to access Customer's containers. Contractor may assess a fee for the purchase of, and a periodic fee for the use of locks, chains, cables, and keys, and shall not be responsible for gates left open or damage to or loss of keys or gate openers. Contractor shall not be liable for any damages to pavement, curbing, walkways, yard, driving surface or accompanying subsurface resulting from its trucks servicing an agreed upon area Customer is responsible for separation of any compostable, organic and recyclable materials at the service location as per contractor's need and/or municipal requirement. Customer agrees to pay Contractor container delivery for any extra waste collected in the immediate area of the equipment, at the extra yardage fee in effect. Further, recyclables contaminated with other items will be disposed of at the extra yardage rate. Customer warrants that waste delivered to Contractor hereunder will not contain any flammable, hazardous or toxic waste as defined by local, State, Federal, or provincial laws or regulations. Customer grants to Contractor the exclusive right to collect all waste and recyclable materials Contractor acquires title to the materials when loaded into Contractor's vehicles provided however, that title to and liability for the waste materials excluded from this agreement shall remain with the customer.

PRICE AND PAYMENT. Customer shall pay Contractor for each scavenger period (4 week period) basis for the collection and disposal service provided by the Contractor (including all charges for container use and maintenance) in accordance with the schedule of charges shown on the reverse side. Payments shall be made by Customer within ten (10) days after the receipt of an invoice from the Contractor. Contractor may impose, and customer agrees to pay, a late fee for all past due payments and an additional fee, if a Flood employee must collect monies in person. Contractor reserves the right to suspend service until payment is made in full without prejudice to any of company's other rights. Contractor also has the right to assess a \$25.00 reinstatement fee. Suspension of service or removal of equipment due to non-payment shall not constitute termination of this agreement by company. Since sanitary landfill, disposal charges and processing fees to which Contractor is subject are a significant cost of the service provided, Contractor may increase the unit price of the collection services provided the Customer in an amount equal to any equivalent unit increase in disposal or processing costs to which Contractor is subjected including increases in transportation costs due to changes in location of the disposal facility and proportionately pass through to the customer increases in the average weight per container yard of the Customer's Waste Materials. Contractor has the right to raise the rate at any time based on the type and weight of material. Contractor may provide thirty (30) days written notice of the price change due to increased disposal or processing cost, which may be shown in adding weight. The Schedule of Charges may be adjusted from time to time to reflect increases in the Consumer Price Index since the last adjustment (or since the date of execution of this agreement for the first adjustment). The Schedule of Charges may be adjusted for reasons other than increases in disposal or fuel costs or the Consumer Price Index, subject to approval by Customer. Customer shall be liable for all taxes, fees, or other charges imposed by federal, state or local laws and regulations upon the collection, transportation, or disposal of customer's waste materials or the service performed hereunder.

CHANGES. Changes in the frequency of collection service, number, capacity and type of container may be agreed to orally or in writing by the parties. Consent to oral changes shall be evidenced by the actions and practices of the parties. This agreement shall continue in effect for the term provided for herein and shall apply to changes of service address, location or additional service locations of the Customer within the area in which the Contractor provides collection service.

TERM. This agreement including any agreed changes shall automatically be for a minimum period of ~~one (1) year~~ ^{thirty (30) days} and shall be automatically renewed for successive ~~one (1) year~~ ^{one (1) year} periods unless either party shall give written notice of termination to the other not more than ~~180 days~~ ^{not less than 90 days prior to the termination date by either party}. Contractor agrees that if Customer no longer requires any collection and disposal service for its waste materials, Customer may terminate this agreement upon written notice given to the Contractor not more than 180 days, not less than 90 days prior to the intended termination date upon payment of all amounts due Contractor. In the event that Customer wishes to terminate this Agreement for any other reason, he may do so provided that he provides Contractor ninety (90) days written notice and pays Contractor on (6) months, or billing periods service charges as a cancellation fee to be determined on the basis of the average of the latest six (6) months, or billing periods invoices during the existence of this service agreement. This agreement is not cancelable or terminable in any other manner other than that provided for herein, unless by a separate agreement in writing and signed by both parties. In the event Customer has existing service agreement with another vendor at the time of executing this service agreement, the commencement date of the agreement shall be at the termination of such vendors agreement without allowance for any renewals thereof. If the customer wishes to buy out of this agreement, customer may do so because of a previous agreement for a seven hundred dollar (\$700) fee made payable to Flood Brothers.

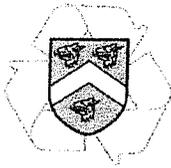
BAZIL
(25)
Flood Bros.
L.F.

EXCUSABLE DELAY. Except for payment obligations, performances by either party shall be excused or postponed when delays arise out of a cause beyond the control, fault or negligence of the party whose performance is being excused or postponed. Such causes may include, but are not limited to, acts of God or the public enemy, government action or failure to act, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, wars, civil disturbances, power failures, laws, regulations, ordinances and other acts of unusually severe weather.

ASSIGNMENT/BINDING EFFECT. Customer may not assign its rights and/or obligations under this Agreement without the prior written consent of Contractor, which consent may be withheld in Contractor's sole discretion. This agreement is a legally binding contract on the part of the Contractor and Customer and their respective heirs, representatives, successors and assigns in accordance with the terms and conditions set out herein. If any term or provision of the contract is declared invalid or unenforceable, all other terms and provisions shall remain in full force and effect to the fullest extent permitted by law.

ATTORNEY'S FEES. In the event of any customer default of this Agreement, Contractor shall be entitled to reasonable attorney's fees and all costs in addition to any other amounts due it pursuant to this Agreement (which includes, but is not limited to, a customer's attempt to terminate, or failure to pay).

—Flood Brothers Disposal and Recycling Service.



Flood Brothers
 DISPOSAL/RECYCLING SERVICES
 P.O. BOX 4560
 CAROL STREAM, IL 60197-4560
 PHONE: 630-261-0400 / 773-626-5800

* I N V O I C E *

BILLING DATE: 7/18/16

Invoice No. 3595765

CUSTOMER NO.
 01 -0067398 7

FLOOD BROTHERS DISPOSAL

BILL TO:

BBJL PROPERTIES
 2117 W RICE ST 1E
 CHICAGO IL 60622

SERVICE ADDRESS:

740 S CALIFORNIA LLC
 740 S CALIFORNIA AVE
 CHICAGO IL 60612

DATE	DESCRIPTION	QUANTITY	UNIT	TOTAL
6/20/16	CHARGE PRORATION 07/01-07/16			
6/20/16	2YD TRASH SERVICE # P/U: 2	1.00		64.29
7/16/16	SCAVENGER SERVICE CHRG			120.00
7/16/16	CONTAINER SERVICE FEE	1.00		6.50
7/16/16	ENVIRONMENTAL & REGULATORY CHRG	1.00		34.80
7/16/16	PROCESSING FEE	1.00		2.50
6/20/16	WORK ORDER#: 3546707 2YD BIN DELIVERY	1.00		125.00

WHEN HAULING COSTS INCREASE YOU
 COULD SEE UNIT INCREASES
 * * * * *
 *THIS INVOICE IS FOR CURRENT
 BILLING CYCLE ONLY
 YOUR ACCESS CODE IS 0070290

Visit us @floodbrothersdisposal.com

INVOICE
 TOTAL

353.09

0100673987000000000035957653



Flood Brothers
 DISPOSAL/RECYCLING SERVICES
 P.O. BOX 4560
 CAROL STREAM, IL 60197-4560

BILL TO: BBJL PROPERTIES
 DATE DUE: 8/03/16

BILLING DATE: 7/18/16

CUSTOMER NO. 01 00673987

REMIT TO: FLOOD BROTHERS DISPOSAL
 & RECYCLING SERVICES
 PO BOX 4560
 CAROL STREAM IL 60197-4560

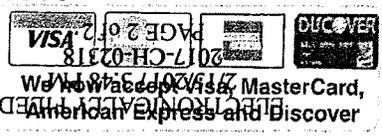
PLEASE PAY 353.09

AMOUNT ENCLOSED \$

PLEASE COMPLETE INFORMATION ON BACK OF PAYMENT SLIP

SEND CHECKS OR LETTERS ONLY TO BELOW ADDRESS
 17 W. 1ST STREET, CHICAGO, IL 60604

PLEASE DETACH THIS COVER FOR RETURN AND NOT LEFT WITH PAYMENT BY EMPLOYEES OR OTHERS. MAKE SURE THE NAME AND ADDRESS ARE CORRECT.



IMPORTANT INFORMATION ON REVERSE SIDE

FILED DATE: 9/4/2019 11:56 AM 2017CH02318

Exhibit E

FILED DATE: 9/4/2019 11:56 AM 2017CH02318

* I N V O I C E *

BILLING DATE: 08/13/2015



Flood Brothers

DISPOSAL / RECYCLING SERVICES
PO BOX 4560
CAROL STREAM, IL 60197-4560

CUSTOMER NO.
01-0068616 1

INVOICE NO: 3363215

FLOOD BROTHERS DISPOSAL

BILL TO:

BBJL PROPERTIES, LLC
2117 W RICE UNIT 1E
CHICAGO IL 60622

SERVICE ADDRESS:

BBJL PROPERTIES, LLC
1122 S CALIFORNIA AVE
CHICAGO IL 60613

DATE	DESCRIPTION	QUANTITY	RATE	TOTAL
07/16/15	PROCESSING FEE	1.00		2.50
07/16/15	PROCESSING FEE	1.00		-2.50
07/30/15	1YD TRASH EXTRA YARDS	2.00	25.000	50.00
08/13/15	SCAVENGER SERVICE CHARGE			80.00
08/13/15	CONTAINER SERVICE FEE	1.00		6.50
08/13/15	ENVIRONMENTAL & REGULATORY CHRG	1.00		20.00
08/13/15	PROCESSING FEE	1.00		2.50
09/16/15	COMMERIAL ADJUSTMENT FLAT			7.00

PAY ONLINE @ FLOODBROTHERSDISPOSAL.COM
YOUR ACCESS CODE IS 0108011

INVOICE
TOTAL

PLEASE PAY

166.00

TEAR ALONG PERFORATION AND RETURN BOTTOM PORTION. KEEP TOP PORTION FOR YOUR RECORDS.

TO INSURE PROPER CREDIT PLEASE RETURN THIS BOTTOM PORTION WITH YOUR PAYMENT - THANK YOU

0100686161000000000033632159



Flood Brothers
DISPOSAL / RECYCLING SERVICES

BILL TO: BBJL PROPERTIES, LLC
DATE DUE: 09/01/2015
INVOICE NO: 3363215

BILLING DATE: 08/13/2015

CUSTOMER NO: 01-0068616 1

PLEASE PAY 166.00

REMIT TO: FLOOD BROTHERS DISPOSAL
& RECYCLING SERVICES
PO BOX 4560
CAROL STREAM, IL 60197-4560

AMOUNT
ENCLOSED

\$

SIMPLY COMPLETE INFORMATION
ON BACK OF PAYMENT STUB

PLEASE DETACH THIS LOWER PORTION AND RETURN WITH
PAYMENT IN ENCLOSED ENVELOPE. MAKE SURE RETURN
ADDRESS LINES UP IN WINDOW.

IMPORTANT INFORMATION ON REVERSE SIDE



We now accept Visa, MasterCard,
American Express and Discover.

PLEASE DO NOT ENCLOSE NOTES OR LETTERS. ALL
CORRESPONDENCE SHOULD BE MAILED TO BELOW ADDRESS.
17W697 BUTTERFIELD RD STE E
OAKBROOK TERRACE, IL 60181

DEFT 000080