



**CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
TENTH JUDICIAL CIRCUIT**

NEW MERKLE INVESTORS, LLC, et al.,

Plaintiffs,

vs.

BFI WASTE SERVICES LLC et al.,

Defendant.

Case No.: 01-CV-2021-903302.00

**MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT AND CONDITIONAL CLASS CERTIFICATION**

New Merkle Investors, LLC; Woody's Pizzeria, Inc.; A+ Auto Service, LLC; Budget Inns of Pensacola, Inc. d/b/a Palm Court Inn; The Albany Condo. Assoc.; JD Feldman Properties, Hermitage of Ravenswood Condominium Association; Garibian & Assoc. Accountancy. Co; Peel Holdings LLC dba Peel Pizza Co.; Coastal Community Foundation of South Carolina, Inc.; Michigan Vision Inst., PLLC; YSH Amelia LLC dba Amelia Plaza Apts.; MS Aujla LLC dba Marathon Gas Station; Red Barn Consulting, Inc.; Bryce Brewer Law Firm, LLC; Lamark, LLC; Buffalo Seafood House, LLC; SVO Lawn & Garden LLC; GF Restaurants Group, Inc. dba Crying Thaiger; and Andrew B. Wade D.D.S., M.S. LLC dba Wade Orthodontics (collectively, "Plaintiffs") move this Court to enter an Order conditionally certifying a class, for purposes of settlement only, and preliminarily approving the settlement¹ that the Parties reached with respect

¹ The Settlement Agreement and its accompanying exhibits are attached as Exhibit A. The proposed Class Notice is attached as Exhibit B. The proposed Preliminary Approval Order is attached as Exhibit C.

to this consolidated litigation pursuant to Alabama Rule of Civil Procedure 23(e). Defendants Republic Services of South Carolina, LLC; Allied Waste Services of North America, LLC; Allied Waste Transportation, Inc.; Allied Waste Systems, Inc.; BFI Waste Services of Texas, LP; BFI Waste Services LLC; Tri-County Refuse Services, Inc.; Republic Services of Ohio Hauling, LLC; BFI Waste Services of Indiana, LP; Republic Services of Pennsylvania, LLC; Allied Waste Services of Massachusetts, LLC; and Consolidated Disposal Services, LLC, (collectively “Republic” or “Defendants” and collectively with Plaintiffs referred to as the “Parties”) do not oppose this request so that the Parties’ settlement may be carried out and this litigation ended. In support thereof, for the reasons explained below, the settlement is fair, reasonable, and adequate, and the settlement class should be properly certified.

I. Introduction and Factual Background.

Plaintiffs are businesses that pursued putative class actions against an assortment of related waste disposal companies, alleging that they had been overcharged in violation of the contracts they entered into and statutory and common law. These allegations are fully set out in the Consolidated Complaint. Defendants deny all aspects of the allegations.

This litigation was pursued and defended aggressively for more than four years across ten separate venues. For purposes of effectuating this settlement, the Parties agreed that all such cases should be consolidated in this venue as it was one of the earliest filed and most central and convenient for the collected litigation. Over the years that these cases were actively and continually litigated, the Parties engaged in extensive motion practice, including the filing of over a dozen dispositive motions, briefing of class certification, and appellate filings. Voluminous discovery was exchanged and reviewed, encompassing hundreds of thousands of pages of production, over twenty depositions, and the exchanging of nine separate expert reports. In sum, the Parties—

through their extensive efforts to date—are extremely well-versed in the facts of this case and well-equipped to evaluate the benefits of settlement and the risks and costs of continued litigation.

This settlement was only reached after extensive negotiations led by the Hon. Layn R. Phillips (Ret.), widely considered to be the preeminent mediator of complex litigation in the country. A former United States District Attorney and United States District Court Judge, Judge Phillips has resolved cases including the NFL Concussion Litigation, the Walmart Consolidated Wage and Hour Litigation, the Merck Vioxx Securities Litigation, and the Michigan State University Sexual Abuse Cases. The Parties engaged in multiple mediation sessions, the first of which occurred in 2022. On August 13, 2024, the Parties engaged in a full day mediation session with Judge Phillips and his team in California. Progress was made but no resolution was reached, and litigation continued. Approximately a year later, Parties continued their mediation efforts with another full day session before Judge Phillips on September 24, 2025.

During that mediation, after extensive negotiations that involved active input and recommendations from Judge Phillips, the parties agreed to resolve the cases consolidated here on a class basis for a settlement fund of \$40,000,000, from which class members who submit valid claims will receive funds as detailed in the Settlement Agreement. (*See* Settlement Agreement, Ex. A). The Settlement Agreement has been approved by all Parties.

Alabama Rule of Civil Procedure 23(e) provides that, in order for this agreed-upon Settlement Agreement to take effect, the Court must approve it and the plan for the Parties to provide notice of the settlement:

The claims, issues, or defenses of a certified class--or a class proposed to be certified for purposes of settlement--may be settled, voluntarily dismissed, or compromised only with the court's approval, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.

Alabama Rule of Civil Procedure 23(e).

Plaintiffs' Counsel has extensive experience in cases like this one and the intensive conducted discovery and litigation conducted in this case show that their evaluation and approval of the proposed settlement is well-founded and in the interests of the Class. Settlements that are the product of a mediator's proposal, especially a mediator as experienced as Judge Phillips, are the definition of an arms-length negotiation and regularly approved as appropriate. Plaintiffs are of the opinion that the proposed settlement is in the best interest of the class and provides valuable relief. Defendants believe that the settlement is fair and reasonable and will provide valuable economies and efficiencies in resolving multiple cases, avoiding additional costs of litigation, and providing final relief. The structure, notice, claims procedure, and relief established in this settlement ensure that it is well-within the bounds of what is fair, reasonable and adequate, that notice is correct under Alabama Rule of Civil Procedure 23(c), and the proposed Settlement Class meets all the requirements for certification for purposes of settlement under Alabama Rule of Civil Procedure 23(a) and (b)(3).

II. Provisional Certification of the Settlement Class is Appropriate.

For settlement purposes only, the Parties have agreed that the Court should make preliminary findings and enter an order granting provisional certification of the Settlement Class and appoint Plaintiffs and their counsel to represent the Class. Certification allows for notice of the terms of the settlement, the right to be heard, the right to opt out, and the time and place of final approval to be provided to the Settlement Class.

"The validity of use of a temporary settlement class is not usually questioned." Conte & Newberg, 4 *Newberg on Class Actions*, §11.25 (4th Ed. 2002). The *Manual for Complex Litigation* explains the benefits of settlement classes:

Settlement classes – cases certified as class actions solely for settlement – can provide significant benefits to class members and enable the defendants to achieve final resolution of multiple suits. Settlement classes also permit defendants to settle while preserving the right to contest the propriety and scope of the class allegations if the settlement is not approved[.] . . . An early settlement produces certainty for the plaintiffs and defendants and greatly reduces litigation expenses.

Manual for Complex Litigation (Fourth) § 21.612. In exercising the broad discretion they exercise in approving class settlements, courts recognize the “strong judicial policy favoring settlement” and are informed by the “realization that compromise is the essence of settlement.” *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984); *In re U.S. Oil and Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992) (“Public policy strongly favors the pretrial settlement of class action lawsuits”).² Courts have long recognized class actions as an essential device to resolve disputes involving similar factual or legal issues. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 617 (1997).

Prior to granting preliminary approval of a class action settlement, a court should determine that the proposed settlement class is a proper class for settlement purposes. *Manual for Complex Litigation* (Fourth) § 21.632; *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

The elements for class certification for settlement purposes are the same for certification that is opposed, although courts recognize that problems that may arise during a contested certification are not relevant. *Amchem Products, Inc.*, 521 U.S. at 620. Here, certification is sought of a Settlement Class defined as:

“All open-market commercial and industrial customers who reside in South Carolina, Florida, California, Pennsylvania, Massachusetts, Michigan, Illinois, Texas, Ohio, Indiana, Arkansas, Oklahoma, and Jefferson County, Alabama, who entered into an automatically renewing written contract for waste hauling services and/or recycling services with direct or indirect subsidiaries and affiliates of

² Alabama Rule of Civil Procedure 23 mirrors Federal Rule of Civil Procedure, and so it is proper to consider Federal cases for guidance. *Cf. Ala. R. Civ. P. with Fed. R. Civ. P.*; *see also, e.g., Atlanta Postal Credit Union v. Cosby*, 374 Ga. App. 863, 868, 912 S.E.2d 137, 144 (2025), *reconsideration denied* (Mar. 14, 2025) (espousing this principle for Georgia law).

Republic Services, Inc. (“RSI”) during the Class Period and whose contract contained a rate adjustment provision that allowed for unilateral increases to adjust for increases in various enumerated costs and CPI as well as an optional cost increases based upon the customers’ consent and who paid rate increases in excess of the combined total for cost increases plus the applicable increase in CPI at the relevant time period.”^{3 4}

The Parties seek certification under Alabama Rule of Civil Procedure 23. Rule 23 provides that the class may be certified the following four prerequisites of Rule 23(a) are satisfied—(1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation—as well as at least one of the three subdivisions of Rule 23(b). Here, the Settlement Class satisfies all the requirements of Rule 23 and should be conditionally certified.

A. The Settlement Class is Numerous.

Numerosity is met where “the class is so numerous that joinder of all members is impracticable.” ALA. R. CIV. P. 23(a)(1); *Cheminova Am. Corp. v. Corker*, 779 So. 2d 1175, 1179 (Ala. 2000). “The numerosity requirement imposes no absolute minimum number” and “[t]he court can accept commonsense assumptions in order to support a finding of numerosity[.]”

³ Excluded from the Class are any customer receiving services under the terms of a franchise agreement, whose agreement expired and therefore the customer was operating without a written contract, whose contract was not fully executed, who signed a contract form originally drafted by the customer, who signed a contract on or after April 4, 2021 (or whose contract otherwise contained a class action waiver or arbitration provision), or who negotiated material changes (which include any restrictions to payment of price increases or a term of one year or less without an auto renewal provision) to the form contract presented by the waste hauling provider.

⁴ The Class Period for the foregoing class is January 1, 2017, through September 30, 2025, inclusive of both the start and end dates for customers in Florida, California, Illinois and South Carolina; for customers located in Michigan, Ohio, and Indiana, the Class Period shall be June 1, 2019 through September 30, 2025; for customers located in Pennsylvania the Class Period shall be August 1, 2021 through September 30, 2025; for customers located in Massachusetts the Class Period shall be June 1, 2021 through September 30, 2025; for customers located in Texas the Class Period shall be September 30, 2021 through September 30, 2025; for customers located in Alabama the Class Period shall be January 1, 2017 through September 30, 2025; for customers located in Arkansas the Class Period shall be January 1, 2017 through December 31, 2018; for customers located in Oklahoma the Class Period shall be January 1, 2020 through June 30, 2021.

Cheminova, 779 So. 2d at 1179. Where it is “clear” that the class numbers are in the “thousands” and the defendant does not “actively contest the numerosity requirement,” the numerosity requirement is satisfied. *Id.*; *CVS Caremark Corp. v. Lauriello*, 175 So. 3d 596, 601 (Ala. 2014).

There is no set number of plaintiffs that results in joinder being impracticable, but an oft-cited benchmark is that class treatment is appropriate when the class exceeds forty members. *See, e.g.* Newberg on Class Actions § 3:12 (5th ed.); *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir.1986) (“[T]here is no fixed numerosity rule, generally less than twenty-one is inadequate, more than forty adequate, with numbers between varying according to other factors.”) (internal quotation omitted).

Here, it is undisputed that the class encompasses more than 100,000 members. This far exceeds the presumptive number for class certification to be appropriate. This Class is sufficiently numerous such that joinder would be impracticable, given the number of individuals in the Settlement Class, the geographic disbursement of Class Members throughout the country, and that absent a class action few Members of the Settlement Class would have the incentive to bring an individual lawsuit over the amounts at issue since each individual member’s claim is relatively small.

B. Common Questions of Law and Fact Exist.

Rule 23(a)(2) requires that there be either questions of law or fact common to the class. ALA. R. CIV. P. 23(a)(2). This is not a high threshold; not all questions need be common to all class members and a single common question will satisfy this requirement. *See, e.g., Carriuolo v. Gen. Motors Co.*, 2016 WL 2870025, at *3 (11th Cir. May 17, 2016); *Coleman v. Cannon Oil Co.*, 141 F.R.D. 516, 521 (M.D. Ala. 1992). The commonality requirement “is met if the questions linking the class members are substantially related to the resolution of the litigation even though

the individuals are not identically situated. Identical questions are not necessary and factual discrepancies are not fatal to certification. *Id.* (internal citations omitted). “Commonality may exist where the party opposing the class has engaged in a course of conduct that affects all class members and gives rise to a plaintiff’s claim.” *Dujanovic v. Mortgage Am., Inc.*, 185 F.R.D. 660, 667 (N.D. Ala. 1999); *see also Braxton v. Farmer’s Ins. Group*, 209 F.R.D. 654, 658 (N.D. Ala. 2002).

Here, the commonality requirement is satisfied because Plaintiffs and each member of the Settlement Class were allegedly subjected to the same conduct; each allegedly entered into the same contractual language and paid the same allegedly excessive rate increases. Moreover, many of the same legal standards apply to the claims of Plaintiffs and members of the Settlement Class. Proving liability for all of Plaintiffs’ claims would require the resolution of some of the same central factual and legal issues as every member of the Settlement Class, including whether the price increases violated the shared contractual provisions. Thus, the common questions resulting from Defendants’ alleged conduct can arguably be answered on a class-wide basis based on allegedly common evidence. Accordingly, the commonality factor is satisfied.

C. The Plaintiffs’ Claims Are Typical.

Typicality focuses on the nature of the claims of the class representatives, not the specific facts giving rise to those claims. ALA. R. CIV. P. 23(a)(3). While commonality refers to the shared characteristics of the class, typicality refers to the class representatives’ claims in relation to the claims of the class. *Piazza v. EBSCO Indus. Co.*, 273 F.3d 1341, 1346 (11th Cir. 2001). For a typicality to be found, the Plaintiffs claims should “have the same essential characteristics as the class at large.” *Cheminova*, 779 So. 2d at 1180 (citing *Coleman*, 141 F.R.D. at 527). However, the “class members’ claims need not be identical to satisfy the typicality requirement; rather, there

need only exist ‘a sufficient nexus between the legal claims of the named class representatives and those of individual class members[.]’ *Manno*, 289 F.R.D. at 686; *see also Wright v. Circuit City Stores, Inc.*, 201 F.R.D. 526, 543 (N.D. Ala. 2001) (“particular factual differences, differences in the amount of damages claimed or even the availability of certain defenses against a class representative may not render his or her claims atypical”) (citations omitted).

Here, Plaintiffs' claims are typical of those of the Settlement Class because they are based on the same legal theory and same alleged conduct. All Class members, including Plaintiffs, allegedly entered into similar contractual provisions and incurred the same allegedly excessive price increases. As a result, the typicality requirement of Rule 23(a)(3) is met.

D. Adequacy Of Representation Is Met.

Under Rule 23(a)(4), to certify a class Plaintiffs must also establish that they can “fairly and adequately protect the interests of the class.” ALA. R. CIV. P. 23(a)(4). This requirement is satisfied where “the named Plaintiffs have [no] interests antagonistic to those of the rest of the class” and “Plaintiffs’ counsel are qualified, experienced and generally able to conduct the proposed litigation.” *Cheminova*, 779 So. 2d at 1181 (citing *Appleyard v. Wallace*, 754 F.2d 955, 958 (11th Cir. 1985)).

With respect to the first issue, no conflict exists between Plaintiffs and the proposed Settlement Class they seek to represent. Plaintiffs’ interests are entirely representative of and consistent with the interests of the proposed Settlement Class—all have allegedly been harmed by the same price increase conduct and all share in the same interest in obtaining relief for the violations alleged. With respect to the second issue, proposed Class Counsel have extensive experience prosecuting class actions and other complex litigation, including successfully resolving similar large-scale breach of contract commercial class actions. Plaintiffs’ counsel has been

approved as class counsel in numerous cases, including [_____]. To date, over the previous years of extensive litigation across multiple venues, Plaintiffs' counsel have demonstrated their adequacy through zealous advocacy that has resulted in this settlement and will continue to ensure the best interests of the class are met through the settlement process. As such, the interests of the Settlement Class are more than adequately represented by Plaintiffs and their counsel in this case and the requirements of Rule 23(a)(4) are satisfied.

E. Common Issues Predominate and Superiority Exists.

In addition to the four criteria under Alabama Rule of Civil Procedure 23(a), the requirements of 23(b)(3) also must be satisfied in that common questions of law or fact predominate over individual questions, and in that a class action is superior to other available methods of adjudication. ALA. R. CIV. P. 23(b)(3); *Cheminova*, 779 So. 2d at 1181.

Under Ala. R. Civ. P. 23(b)(3), here, as other courts have found when looking at similar cases, the common issues identified above outweigh any individualized issues in the litigation. All the proposed Settlement Class Members share common questions of law and fact that bind them together and make class certification appropriate. As discussed, above, each allegedly entered into similar contractual rate increase provisions, and each had their rates increased by an amount which they allege violates this provision. These types of claims that involve common contractual provisions and conduct are routinely considered appropriate for class certification because they naturally involve common questions that outweigh any individual issues. *See, e.g.*, *Sacred Heart Health Sys., Inc. v. Humana Military Healthcare Serv., Inc.*, 601 F.3d 1159, 1171 (11th Cir. 2010) (“[i]t is the form contract, executed under like conditions by all class members, that best facilitates class treatment.”) ; see also *Allapattah Serv., Inc. v. Exxon Corp.*, 333 F.3d 1248, 1260–61 (11th Cir. 2003) (even different contracts appropriate for class certification where they are materially

similar s); *Kleiner v. First Nat'l Bank of Atl.*, 97 F.R.D. 683, 692 (N.D. Ga. 1983) (collecting cases). Accordingly, individualized issues do not predominate and class certification for settlement purposes is appropriate.

Further, a class action is superior to class members bringing individual actions because, given the number of class members and the relatively low value of claims, most members of the Settlement Class would lack the incentive to litigate their claims individually. It is thus unlikely that individuals would invest the time and expense necessary to seek relief through individual litigation. In addition, a class action is the superior method of resolving large scale claims if it will “achieve economies of time, effort, and expense, and promote . . . uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results.” *Amchem* 521 U.S. at 615. Here, because all the Settlement Class Members’ claims involve the same alleged course of conduct and are arguably subject to resolution based on the determination of the same common legal and factual issues, it would also be most efficient for their claims to be adjudicated on a class basis. This is particularly true in the favored settlement context, where any management concerns are negated by the agreed upon procedures. *See, e.g., Family Medicine Pharmacy, LLC v. Trxade Group, LLC*, No. 15-0590-KD-B, 2016 WL 6573981, at *7 (S.D. Ala. Nov. 4, 2016) (citing *Amchem*, 521 U.S. at 620) (“Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems[.]”).

Because the proposed Settlement Class satisfies all the requirements under Ala. R. Civ. P. 23(a) and 23(b)(3), Plaintiffs respectfully request that the Court grant preliminary class

certification of the Settlement Class.

F. The Proposed Notice To The Settlement Class Satisfies Rule 23(c)(2) and (e).

Under Ala. R. Civ. P. 23(c)(2), where, as here, a class is certified pursuant to Rule 23(b)(3), the Court is to direct notice to all Class Members who “can be identified through reasonable effort” the “best notice that is practicable under the circumstances.” ALA. R. CIV. P. 23(c)(2). This notice should advise Class Members that:

(A) the court will exclude the member from the class if the member so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not require exclusion and (C) any member who does not request exclusion may, if the member desires, enter an appearance through counsel.

ALA. R. CIV. P. 23(c)(2)

Rule 23(e) further specifies that “notice of [any] proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.” Ala. R. Civ. P. 23(e). In accordance with Ala. R. Civ. P. 23(c)(2) and 23(e), the Parties request that this Court appoint RG2 Claims Administration, LLC as the Settlement Administrator and direct that notice be provided to Class Members in accordance with the “Notice Program” in the attached Settlement Agreement. (*See* Settlement Agreement, Ex. A).

The proposed notices in this case satisfy the requirements of Ala. R. Civ. P. 23(c)(2) and 23(e). First, direct notice of the Settlement will be sent via U.S. Mail to all Settlement Class Members. In addition, to the extent any Settlement Class Members do not receive direct notice, the Settlement also provides that the Settlement Administrator will establish a website and update the website throughout the claim period, with the Short Form Notice, Long Form Notice, and Claim Form, and will provide copies of the Settlement Agreement upon request. The proposed Short and Long Form Notices, and Claim Form are attached as exhibits hereto. *See* Notices, Ex. B, . These notices all provide Settlement Class Members information regarding: a description of

the Settlement Class; a description of the proposed settlement; the procedures and deadlines for filing objections or seeking exclusion from the settlement; the consequences of opting out or remaining in the Class; that Class Counsel will apply for attorneys' fees in the amount of one-third of the common fund, reimbursement of expenses incurred, and incentive awards for the Class Representatives; and how to obtain additional information about the case. (*See id.*) This is the best notice practicable because it is direct, mailed notice to all known Class Members and provides all information required under Rule 23(c)(2). Accordingly, Plaintiffs request that, pursuant to Rule 23(c)(2) and 23(e), this Court approve and direct notice in the manner set forth in the proposed Notice Program.⁵

III. Preliminary Approval of the Settlement is Appropriate.

In addition to evaluating whether a proposed Settlement Class meets the requirements for class certification, any settlement agreement purporting to resolve a class action must also obtain "approval of the court." ALA. R. CIV. P. 23(e).

Courts have broad discretion to approve class action settlements. *See, e.g., In re U.S. Oil and Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992). In exercising this discretion, courts recognize the "strong judicial policy favoring settlement" and are informed by the "realization that compromise is the essence of settlement." *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). Courts have long recognized class actions as an essential device to resolve disputes involving similar factual or legal issues. *Amchem Prods., Inc.*, 521 U.S. at 617. The interests favoring settlement are particularly supportive of class action settlements, given the inherent costs,

⁵ The Settlement Agreement contains a scrivener's error providing some payment to claimants as credits to their bills as opposed to direct payment by checks. As reflected in the notice documents, this has been corrected and every member of the Settlement Class who submits a valid claim will receive a check, regardless of whether they are a current or former class member.

delays, and risks involved in such complex litigation. *See, e.g., In re U.S. Oil and Gas*, 967 F.2d at 493 (“Public policy strongly favors the pretrial settlement of class action lawsuits”). Preliminary approval is simply a threshold step for class notice that “does not involve a determination of the merits of the proposed settlement or affect the substantive rights of any class member.” *Figueroa v. Sharper Image Corp.*, 517 F. Supp.2d 1292, 1299 (S.D. Fla. 2007). For preliminary approval, “the court simply determines whether the proposed settlement falls within the range of possible approval.” *Id.* at 1298.

Accordingly, a court should ordinarily grant preliminary approval of a settlement where it “appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the range of possible [judicial] approval.” Rubenstein, *Newberg on Class Actions* (5th Ed.) §13.13 (2015) (*quoting* Manual for Complex Litigation, Second, §30.44); *see also In re Checking Account Overdraft Litigation*, 275 F.R.D. 654, 661 (S.D. Fla. 2011) (“Preliminary approval is appropriate where the proposed settlement is the result of the parties' good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason”). A settlement that is the result of arm's-length negotiations by class counsel is presumed to be fair and reasonable. *See* 4 Newberg on Class Actions § 11:41 (4th ed.).

Critically, preliminary approval should be “granted unless a proposed settlement is obviously deficient.” *Id.* In evaluating whether a settlement should be preliminary approved, courts typically evaluate whether the settlement is “fair, reasonable, and adequate.” *See Faught v. Am. Home Shield Corp.*, 668 F.3d 1233, 1240 (11th Cir. 2011) (citing *Holmes v. Cont'l Can Co.*, 706 F.2d 1144, 1147 (11th Cir. 1983)). The factors typically evaluated to determine whether a settlement is “fair, reasonable, and adequate” are:

(1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which the settlement is fair, adequate, and reasonable; (4) the complexity, expense, and duration of the litigation; (5) the substance and amount of opposition to the settlement; (6) the stage of the proceedings at which the settlement was achieved; and (7) the financial ability of the defendant to withstand a greater judgment[.]

Adams v. Robertson, 676 So. 2d 1265, 1273 (Ala. 1995).

The proposed settlement in this case is fair, reasonable, and adequate and preliminary approval and notice to the Settlement Class is appropriate. As an initial matter, the Settlement Agreement was the product of extended, arm's length negotiations and is the result of the active assistance of the preeminent mediator of class actions in the country, the Hon. Layn Phillips (Ret.). As such, it is presumptively, fair, reasonable and adequate.

Even setting aside this presumption, each of the four factors above strongly advocates in favor of approval of the Settlement. First, while Plaintiffs believe strongly in the viability of their claims, they are also aware that Defendants have raised vigorous and numerous defenses and that no judge or jury has weighed in on the ultimate question of liability. Defendants feel strongly that they committed no wrong, that neither Plaintiffs nor any putative member of the Settlement Class was harmed, and that Plaintiffs should not be able to adversely certify a class other than for settlement purposes. Cases such as these, even absent the resources and skilled advocacy shown by Defendants here, possess tremendous risk, and the risk that Plaintiffs' claims will not succeed ultimately supports approval of the Settlement.

With respect to the second and third factors the proposed Agreement is fair, reasonable, and adequate and is in the best interest of Settlement Class Members because, upon submission of a valid Claim Form and approval of the claim, Settlement Class Members will each be provided benefits that will provide them real monetary compensation. The Settlement Agreement provides that Defendants will provide settlement funds up to an amount of \$40,000,000, from which every

effected member of the Settlement Class that satisfies the straightforward claim requirements will receive a cash payment. Defendants, of course, maintain that there are no damages and that the possible recovery for any member of the Settlement Class—and the Settlement Class as a whole—is effectively zero, but Plaintiffs reasonably estimate that this total settlement amount represents a significant portion, and likely more than 60% of the range of possible recovery. Further, again, the possibility that the Settlement Class Members would receive no benefit whatsoever in the absence of this Settlement must be considered. Thus, the proposed Settlement is fair, reasonable, and adequate, and warrants Court approval.

With respect to factor four, the complexity, expense, and duration of this litigation to date, and in the future absent this Settlement, is enormous. Again, this consolidated litigation is comprised of numerous lawsuits pursued in ten separate venues over more than four years. More than a dozen separate law firms have represented the Plaintiffs in this litigation. Extensive motion practice was undertaken, including the filing of over a dozen dispositive motions, briefing of class certification, and appellate filings. Hundreds of thousands of pages of production were made, over twenty depositions were taken, and the parties exchanged nine separate expert reports. The litigation in a single venue alone supports the Settlement, and when the complexity and extensiveness of litigation across the multiple cases now consolidated is considered, the immediate and considerable relief provided to the Class under the Settlement Agreement weighs heavily in favor of its approval compared to the inherent risk and delay of continued litigation, trial, and appeal.

As to the fifth factor, given the strength of this Settlement and the significant amount of the award that Settlement Class Members can claim, Plaintiffs expect little or no opposition to the Settlement by members of the Settlement Class. Regardless, the Settlement provides for clear and

straightforward procedures for any member who wishes to be included, but nonetheless raise any theoretical concerns, to be heard.

As to the sixth factor, this Settlement was reached at a very advanced stage of the litigation. Across the consolidated cases, the Parties had, to varying degrees, engaged in (and in some cases, completed) fact discovery on class certification issues, briefed and resolved multiple dispositive motions, presented expert reports and testimony, and engaged in extensive class certification briefing. The Settlement Agreement was negotiated at arm's length in an adversarial setting between counsel who are experienced in all aspects of class action litigation and only resolved after multiple sessions before mediator Layn Phillips. This factor also supports approval.

Finally, as to the seventh factor, a defendants' ability to pay if a plaintiff were to succeed at trial is never guaranteed in any litigation. Here, Defendants have long maintained that the separation within their corporate structure limits liability to the companies that signed the underlying contracts and provided the related services. Defendants continue to maintain that Plaintiffs cannot pierce the corporate veil such that other entities may be held liable. No court or jury has ultimately rejected these defenses and, were Defendants to succeed on them, the amount of any judgment would be significantly reduced (and, in fact, may be less than the amount reached in this Settlement). Again, this factor supports approval.

In conclusion, the Settlement Agreement is fair, reasonable, and adequate considering, among other things: (1) the relief available to Plaintiffs and Class Members under the terms of the Settlement Agreement; (2) the extensive litigation conducted to date and that would continue absent settlement; (3) the attendant risks and uncertainty of litigation, as well as the difficulties and delays inherent in litigation; and (4) the desirability of resolving the case provide effective relief to Plaintiffs and the Class.

CONCLUSION

For the reasons set out above, and as set out in the proposed Preliminary Approval Order, Plaintiffs respectfully request that the Court grant this Motion (1) appointing named Plaintiffs as Settlement Class Representatives; (2) appointing Price Armstrong, LLC, Cory Watson, PC, and Ken Simon as Class Counsel; (3) preliminarily approving the proposed Settlement Agreement; (4) approving the form and methods of the proposed notice; (5) ordering the issuance of notice; and (6) granting such further relief as the Court deems reasonable and just.

The Parties propose the following schedule for the hearing on final approval and dates leading up thereto:

1. **Notice Date:** the Settlement Administrator issues the approved Notice no later than sixty days (60) days after the Court has entered the Preliminary Approval Order;
3. **Claims Deadline:** Claim forms must be postmarked or electronically submitted to the Settlement Website within thirty (30) days after the Final Approval Order is entered;
4. **Deadline for Opt-Outs / Objections:** Settlement Class Members must submit their Requests for Exclusion, pursuant to the terms and conditions in the Settlement Agreement, within shall be forty (45) days following the Notice Date;
6. **Submission of Papers in Support of Attorneys' Fees and Expenses:** must be filed no later than seven (7) days prior to the Deadline for Opt-Outs / Objections;
7. **Submission of Papers in Support of Final Approval of Settlement and in Response to any Objections:** must be filed no later than seven (7) days prior to the date of the Final Approval Hearing; and
8. **Final Approval Hearing:** will occur no earlier than sixty (60) days after the Notice Date. The parties shall contact the court upon the Notice Date being determined to schedule this date.

Dated: December 15, 2025

/s/ Oscar M. Price, IV

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2025, I electronically filed the foregoing with the Clerk of the Court using the AlaFile system which will send notification of such filing to the following:

J. Thomas Richie (RIC078)
Bradley Arant Boult Cummings LLP
One Federal Place
1819 Fifth Avenue North Birmingham, AL 35203-2104
Telephone: (205) 521-8000
Facsimile: (205) 521-8800

/s/ T. Graham Cotten



SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Settlement Agreement”) is entered into by and between Defendants Republic Services of South Carolina, LLC, Allied Waste Services of North America, LLC, Allied Waste Transportation, Inc., Allied Waste Systems, Inc., BFI Waste Services of Texas, LP, BFI Waste Services LLC, Tri-County Refuse Services, Inc., Republic Services of Ohio Hauling, LLC, BFI Waste Services of Indiana, LP, Republic Services of Pennsylvania, LLC, Allied Waste Services of Massachusetts, LLC, Consolidated Disposal Services, LLC, (collectively “Defendants”) and Plaintiffs New Merkle Investors, LLC; Woody’s Pizzeria, Inc.; A+ Auto Service, LLC; Budget Inns of Pensacola, Inc. d/b/a Palm Court Inn; The Albany Condo. Assoc.; JD Feldman Properties; Hermitage of Ravenswood Condominium Association; Garibian & Assoc. Accountancy. Co; Peel Pizza Co.; Coastal Community Foundation of South Carolina, Inc.; Michigan Vision Inst., PLLC; YSH Amelia LLC dba Amelia Plaza Apts.; MS Auija LLC dba Marathon Gas Station; Red Barn Consulting, Inc.; Bryce Brewer Law Firm, LLC; Lamark, LLC; Buffalo Seafood House, LLC; SVO Lawn & Garden; GF Restaurants Group, Inc.; and Andrew B. Wade D.D.S., M.S. LLC, (collectively, “Plaintiffs”), and on behalf of the Settlement Class defined herein, subject to approval by the Court.

RECITALS

WHEREAS, the above consolidated lawsuits is comprised of the Parties and claims alleged or that could have been alleged regarding any and all payments for waste hauling services and/or recycling services, including service charges and related fees (the “Litigation”);

WHEREAS, each Plaintiff has each asserted contract, tort, and injunctive claims, on their own behalf and on behalf of putative classes of persons similarly situated in South Carolina, Florida, California, Pennsylvania, Massachusetts, Michigan, Illinois, Texas, Ohio, Indiana, Arkansas, Oklahoma, and Jefferson County, Alabama, seeking monetary damages and other relief on behalf classes of persons and entities who entered into a contract with direct or indirect subsidiaries and affiliates of Republic Services, Inc. and who paid rate increases.

WHEREAS, Defendants deny all allegations of wrongful conduct and damages, deny liability to Plaintiffs or the putative classes, assert that their conduct and practices are lawful and proper, and asserts numerous procedural and substantive defenses to Plaintiffs’ claims, and Defendants further deny that this Litigation satisfies the requirements to be tried as a class action under the state and federal rules applicable to each lawsuit brought by Plaintiffs;

WHEREAS, the Parties have engaged in extensive arm’s length negotiations concerning the claims alleged, the defenses presented, and the potential risk and uncertain outcomes of continued litigation for all Parties, as part of a multiple mediations, including two mediations before the Honorable Layne Phillips (Ret.), former United States Attorney and former United States District Judge.

WHEREAS, Plaintiffs have conducted a thorough investigation of the facts and claims alleged herein through extensive litigation and discovery and as part of the mediation process and, having taken into account the sharply contested issues involved in this litigation, the risks and

costs to the Settlement Class of continued litigation and attendant appeals, the uncertain outcomes of continued litigation and attendant appeals, and the substantial relief to be provided to the Settlement Class pursuant to this Settlement Agreement, Plaintiffs believe a settlement on the terms set forth in this Settlement Agreement is fair, equitable, and in the best interests of the Settlement Class, and have thus agreed to settle this Litigation on the terms set forth herein.

WHEREAS, Defendants, though expressly disclaiming any liability or wrongful conduct, but nonetheless recognizing the uncertainty of continued litigation and appeals, desire to resolve this Litigation to avoid further expense, to eliminate risk, and to resolve all claims brought by Plaintiffs on their own behalf and on behalf of the Settlement Class on the terms set forth in this Settlement Agreement and have thus agreed to settle this Litigation.

WHEREAS, Plaintiffs and Defendants have agreed to settle and fully and finally resolve their disagreements on a multi-state basis in thirteen separate states for the consideration and under the terms set forth herein, which shall include a full and complete release of Defendants.

THEREFORE, intending to be legally bound and acknowledging the sufficiency of the consideration provided herein, the Parties agree, subject to the approval of the Court and the provisions contained herein, that this Litigation and Plaintiffs' Claims against Defendants, as herein defined, are fully and finally settled and that this Litigation shall be dismissed with prejudice on the terms and conditions set forth herein.

ARTICLE I DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the following meanings.

1.1 “***Administration Expenses***” shall mean the costs of administering this Settlement Agreement from the date of execution through the completion of distribution of funds to the Settlement Class, which is comprised of all amounts paid to the Settlement Administrator, all costs of class notice, and all costs of allocation and distribution of funds.

1.2 “***Claims Cap***” shall mean the maximum amount to be paid to any class member. For purposes of this Settlement Agreement, the total amount paid to any individual class member shall be no more than \$250. The Claims Cap shall apply to customers who qualify as class members and shall be applied on a per customer basis regardless of the number of accounts that customer may have.

1.3 “***Class Counsel***” shall mean the law firms of Price Armstrong LLC and Cory Watson, and the attorneys of record who are members of those law firms, and Ken Simon.

1.4 “***Class Period***” shall mean January 1, 2017, through September 30, 2025, inclusive of both the start and end dates for classes of customers in Florida, California, Illinois and South Carolina. The “***Class Period***” for customers located in Michigan, Ohio, and Indiana shall be June 1, 2019 through September 30, 2025; for customers located in Pennsylvania it shall be August 1, 2021 through September 30, 2025; for customers located in Massachusetts it shall be June 1, 2021 through September 30, 2025; for customers located in Texas it shall be September 30, 2021 through September 30, 2025; for customers located in Alabama it shall be January 1, 2017 through

September 30, 2025; for customers located in Arkansas it shall be January 1, 2017 through December 31, 2018; for customers located in Oklahoma it shall be January 1, 2020 through June 30, 2021.

1.5 “**Court**” shall mean the Circuit Court of Jefferson County, Alabama.

1.6 “**Defendants**” means the waste hauling and recycling subsidiaries defined as “Defendants” in the opening paragraph of this Settlement Agreement. Any release of Defendants’ liability will also extend to all predecessors, successors, direct and indirect parents and subsidiaries, sister companies, affiliated companies, any acquired companies, divisions, related or affiliated entities, any and all direct and indirect subsidiaries of Republic Services, Inc., and any entity in which Defendants or their direct and indirect parent companies have a controlling interest, and for each and every above referenced entity, its respective past, present, and future directors, managers, officers, employees, agents, attorneys, insurers, co-insurers, reinsurers, and each and all of its respective predecessors, assigns, and legal representatives.

1.7 “**Defendant’s Counsel**” shall mean the law firm of Bryan Cave Leighton Paisner, LLP and Bradley Arant Boult Cummings LLP.

1.8 “**Expenses**” shall mean the out-of-pocket costs paid by Plaintiffs’ counsel for expenses related to pursuit of the Litigation (defined below) prior to reaching this Settlement Agreement in an amount not to exceed \$1.785 million.

1.9 “**Final Approval**” shall mean the earliest date on which all three of the following conditions are satisfied: (1) the Court enters final judgment, (2) the Court awards attorneys’ fees and Expenses, (3) all counsel for Plaintiffs in the Litigation execute the counsel agreement, and (4) any appellate rights of non-Parties with respect to this Settlement Agreement, if any non-Parties have standing to pursue such rights, have expired or have been exhausted, culminating in affirmation of this settlement as proposed by the Parties.

1.10 “**Final Fairness Hearing**” shall mean the hearing provided in Section 3.1(i).

1.11 “**Final Order**” shall mean the final order and judgment of the Court approving this Settlement Agreement and the settlement provided herein, which shall, among other things, dismiss with prejudice this Litigation and release all claims that could have been brought therein by Plaintiffs and the Settlement Class.

1.12 “**Litigation**” shall refer to the following civil actions collectively:

- (a) *Woody’s Pizzeria, Inc. v. Republic Servs., Inc. et al.*, No: 7:22-cv-1242 (U.S. District Court of South Carolina);
- (b) *A+ Auto Service, LLC v. Republic Servs. of South Carolina, LLC*, No. 2:21-cv-01492 (U.S. District Court of South Carolina);
- (c) *Budget Inns of Pensacola, Inc. v. Republic Servs., Inc.*, No. 3:24-cv-540 (N.D. Fla.);

- (d) *The Albany Condo. Assoc. v. Republic Servs., Inc.*, No. 1:24-cv-10852 (N.D. Ill.);
- (e) *Garibian & Assoc. Accountancy Co. v. Republic Servs., Inc.*, No. 2:24-cv-09486 (C.D. Cal.);
- (f) *Peel Pizza Co. v. Republic Servs., Inc.*, No. 1:25-cv-11387 (D. Mass.);
- (g) *Michigan Vision Inst., PLLC v. Republic Servs., Inc.*, No. 4:25-cv-11454 (E.D. Mich.);
- (h) *Red Bard Consulting, Inc. v. Republic Servs, Inc.*, No. 5:25-cv-02953 (E.D. Pa.);
- (i) *Bryce Brewer Law Firm, LLC v. Republic Servs., Inc.*, No. 4:22-cv-00120 (E.D. Ark.);
- (j) *Lamark, LLC v. Republic Servs., Inc.*, No. 6:22-cv-00172 (E.D. Okla.); and
- (k) *New Merkle Investors, LLC v. Republic Servs., Inc.*, No. 01-CV-2021-903302.00 (Circuit Court of Jefferson County, Alabama, Birmingham Division).

1.13 “**Net Settlement Fund**” shall mean the portion of the Settlement Fund remaining after payment of the awarded attorneys’ fees, Expenses, and class representative incentive awards, and the Administration Expenses

1.14 “**Parties**” shall mean Plaintiffs and Defendants, including each and all of their respective predecessors, successors, direct and indirect parents and subsidiaries, acquired companies, divisions, related or affiliated entities, and any entity in which any of them have a controlling interest, and for each and every above referenced entity, its respective past, present, and future directors, managers, officers, employees, agents, attorneys, insurers, co-insurers, reinsurers, and each and all of its respective predecessors, assigns, and legal representatives.

1.15 “**Plaintiffs’ Claims**” shall mean any and all claims, whether known or unknown, Plaintiffs or any member of the Settlement Class brought or could have brought against Defendants related to any of the payments made for the waste hauling or recycling services they received or any claims involved or any of the allegations asserted in pleadings in the Litigation, including without limitation, claims (whether based in contract, tort, common law, statute, or any other legal or equitable theory) involving the negotiation, assessment, presentation, representation, suppression, or payment which regard or relate to the Rate Adjustments.

1.16 “**Preliminary Approval Order**” shall mean the order to be entered by the Court granting preliminary approval of this Settlement Agreement that satisfies the conditions listed in Section 3.1(a)–(i).

1.17 “**Rate Adjustments**” shall mean and refer to all payments for waste hauling or recycling services paid by members of the Settlement Class which have been the subject of claims

in any of the cases which comprise the Litigation including any price increases paid by members of the Settlement Class.

1.18 “**Released Claims**” shall mean any and all causes of action, claims for damages, equitable, legal and administrative relief, interests, penalties, fees, costs, demands, losses, liabilities or rights, whether based on federal, state, or local laws, statutes or ordinances, regulations, contracts, common law or any other source, known or unknown, whether or not concealed or hidden, accrued or not yet accrued, that Plaintiffs and the Settlement Class have against Defendants regarding the Rate Adjustments (or any other claims for any other damages alleged in the Litigation), including without limitation, claims for breach of contract, claims for unjust enrichment or quasi-contract, claims for injunctive or declaratory relief, and claims for violation of any state or federal statutes, rules, or regulations, including without limitation any common law or statutory claims for unlawful, unconscionable, unfair, deceptive, or fraudulent business practices arising out of, based upon, or related to the facts, transactions, events, occurrences, acts, practices, disclosures, or omissions that were alleged or could have been alleged in the Litigation, including without limitation, those arising from the implementation, maintenance, calculation, assessment, modification, marketing, disclosure, allocation, and/or charging and collecting of any payments for waste hauling or recycling services, including but not limited to invoice charges, fees and the Rate Adjustments.

1.19 “**Settlement Administrator**” shall mean RG2 Claims Administration, LLC 30 South 17th Street, Philadelphia, PA 19103-4196, which shall be retained and compensated by Defendant, with all such costs being paid out of the settlement fund as set out herein.

1.20 “**Settlement Class**” shall mean “All open-market commercial and industrial customers who reside in South Carolina, Florida, California, Pennsylvania, Massachusetts, Michigan, Illinois, Texas, Ohio, Indiana, Arkansas, Oklahoma, and Jefferson County, Alabama, who entered into an automatically renewing written contract for waste hauling services or recycling services with direct or indirect subsidiaries and affiliates of RSI during the Class Period and whose contract contained a rate adjustment provision that allowed for unilateral increases to adjust for increases in various enumerated costs and CPI as well as an optional cost increases based upon the customers’ consent and who paid rate increases in excess of the combined total of 6% for cost increases plus the applicable increase in CPI at the relevant time period.” The Settlement Class excludes any customer receiving services under the terms of a franchise agreement, whose contract expired and therefore the customer was operating without a written contract, who did not execute a contract, whose contract was indicated to be “unsigned” in the Defendants’ databases, who signed a contract form originally drafted by the customer, who signed a contract on or after April 4, 2021 (or whose contract otherwise contained a class action waiver or arbitration provision), or who negotiated material changes (which include any restrictions to payment of price increases or a term of one year or less without an auto-renewal provision) to the form contract presented by the waste hauling or recycling provider. The Settlement Class also excludes such entities and people who opt out of the Settlement Class as provided in Article V.

1.21 “**Settlement Class Member**” shall mean a member of the Settlement Class.

1.22 “**Settlement Fund**” shall mean an amount of \$40,000,000 possessed by Defendants used to (1) provide monetary compensation to all members of the Settlement Class that both submit

a valid claim form and do not file a valid and timely opt-out notification (which shall be distributed by the Settlement Administrator in accordance with the terms set out herein), (2) pay awarded attorneys' fees, Expenses, and class representative incentive awards, and (3) pay the Administration Expenses.

1.23 "***Settlement Notice***" shall mean the notice of proposed class action settlement provided for herein.

ARTICLE II CERTIFICATION OF THE SETTLEMENT CLASS

2.1 The Parties entered this Settlement Agreement solely for the purposes of fully and finally resolving the Litigation along the lines and terms set forth herein. Nothing in this Settlement Agreement shall be construed as an admission by Defendants of any wrongdoing as asserted in the Litigation or that this Litigation or any similar case is amenable to class certification for purposes of trial or that any of the Released Claims are meritorious in any respect.

2.2 The Parties agree, for the sole purpose of effecting a settlement, and upon the express terms and conditions set out in this Settlement Agreement, Plaintiffs shall seek, and Defendants will not oppose, certification of the Settlement Class defined above. The Parties acknowledge and agree that if this Settlement Agreement is not fully and finally approved by the Court without material change, the settlement is voidable at the election of either Party and, if voided, that Defendants has not waived and has expressly reserved the right to challenge the certification of the Settlement Class and the substantive merits of Plaintiffs' claims in the Litigation, and to object to and appeal any order entered in any of the cases that comprise the consolidated Litigation. Nothing in this Settlement Agreement may be used in any judicial or administrative proceeding regarding the propriety of class certification outside of settlement. The Court's certification of the Settlement Class is not and shall not be deemed to be the adjudication of any fact or issue for purpose other than the accomplishment of the Settlement.

2.3 If this Settlement is not approved by the Court for any reason, or is modified by the Court (including any change to the release provided herein), or is otherwise terminated, then the following terms apply.

(a) This Settlement Agreement shall have no legal or persuasive effects and shall immediately become null and void, and the Parties expressly agree to do whatever is necessary legally and procedurally to return all cases that comprise this Litigation to their pre-settlement status, including filing all necessary joint motions;

(b) This settlement and all aspects of it, including but not limited to, all negotiations, terms and documents created as a result of negotiations, or the proposed settlement may not be used for any purpose in this or any other legal action unless the subject of that legal action is the settlement of the Litigation;

(c) The Litigation, including the actions consolidated therein, shall revert to the same procedural and legal status existing prior to the Parties entering into this Settlement Agreement;

(d) The Settlement Class shall be automatically decertified, and the Parties shall take whatever action is appropriate so that the Parties can be restored to their pre-settlement positions, and

(e) Any portion of the Settlement Fund paid (other than any amount paid to the Settlement Administrator for administration) shall be returned to Defendants within thirty (30) days.

ARTICLE III PRESENTATION OF THE SETTLEMENT TO THE COURT

3.1 Within 14 days of the execution of this Settlement Agreement, Plaintiffs shall submit to the Court a Motion for Preliminary Approval and a proposed Preliminary Approval Order, which Defendants shall have an opportunity to review and revise, and shall not ultimately oppose once agreed, which shall

- (a) incorporate the terms of this Settlement Agreement,
- (b) approve and appoint Class Counsel,
- (c) grant preliminary approval of this Settlement Agreement as fair, reasonable, adequate, and in the best interests of the Plaintiffs and Settlement Class under the Alabama Rules of Civil Procedure,
- (d) grant preliminary certification of the Settlement Class solely for the purposes of effectuating the settlement contemplated by this Settlement Agreement,
- (e) order the parties to the Litigation to effectuate stays and cease all discovery efforts in those respective cases,
- (f) enjoin any further actions relating to the subject matter of this Settlement Agreement,
- (g) approve and direct notice to be given to members of the Settlement Class as set out herein
- (h) set procedures for objections and opt-outs, and
- (i) set a hearing for Final Approval of this Settlement Agreement.

ARTICLE IV NOTICE TO THE CLASS

4.1 The Settlement Administrator shall provide notice to the Settlement Class as soon as is practical after entry of the Preliminary Approval Order, but no later than 60 days following entry of the Preliminary Approval Order unless otherwise necessary and mutually agreed. Such notice shall take the form attached hereto as Exhibit A.

ARTICLE V
PROCEDURE FOR OPTING OUT OF THE SETTLEMENT CLASS

5.1 Any member of the Settlement Class who does not wish to participate in this settlement must write to the Settlement Administrator, Class Counsel, and Defendant's Counsel stating an intention to "opt out" of the class. This written notice must be signed by the Settlement Class Member and must be received by the Settlement Administrator, Class Counsel, and Defendants' Counsel not later than fourteen (14) days prior to the date set for the Final Fairness Hearing.

5.2 Any attempt to opt out by notice to the Clerk of the Court, the Court, or any person other than the Settlement Administrator, Class Counsel, and Counsel for Defendants shall be of no effect.

5.3 Any attempt to opt out which is not received by the Settlement Administrator, Class Counsel, and Counsel for Defendants within the deadlines set forth in the agreement shall be of no effect.

5.4 Any objector who timely submits an objection as set forth below, but does not file written notice of opting-out shall not be considered to have complied with the terms of the opt-out procedure and shall be bound by the Settlement Agreement if approved by the Court.

5.5 Class Counsel and Defendants' Counsel may jointly agree to waive failure to comply with the requirements of Sections 5.1– through 5.4. For any such waiver to be effective, both Class Counsel and Defendants' Counsel must jointly agree to the waiver.

ARTICLE VI
PROCEDURE FOR PRESENTING OBJECTIONS

6.1 Members of the Settlement Class shall have the right to appear and show cause, if they have any, why the Court should not approve the proposed settlement. The Class Members may also object to the allowance or disallowance of claims of Settlement Class Members, the implementation or enforcement of the Settlement Agreement, the binding effect of the Settlement Agreement upon the claims of any Class Member, the allowance of attorneys' fees and Expenses requested, or any other aspect of the proposed settlement or Settlement Agreement.

6.2 Any objection must be filed with the Court, with a copy delivered to Class Counsel and Defendant's Counsel as set out below, no later than fourteen (14) days prior to the Final Fairness Hearing.

6.3 All written objections must be delivered to both of the following addresses, and when received will be provided to the Court:

Oscar M. Price, IV
ATTN: Republic Class Action Objection
Price & Armstrong, LLC

1919 Cahaba Road
Birmingham, Alabama 35223

Meridyth M. Andresen
ATTN: Republic Class Action Objection
Bryan Cave Leighton Paisner, LLP
Two North Central Ave, Ste. 2100
Phoenix, AZ 85004

6.4 An objection to the Settlement Agreement shall be signed by the objector; shall clearly state a desire to object to the Settlement Agreement; shall reference the above case-style; and shall include the following information:

(a) the objecting party's name, signature, title, home and business addresses, home and business telephone numbers, and a copy of the objecting party's contract(s) that was in place during the Class Period with Defendants and the date the objecting party entered into a contract with Defendants (or other information sufficient to identify the class member's contract);

(b) a notice of intention to appear, either in person or through an attorney, with the name, address, and telephone number of the attorney, if any, who will appear;

(c) certification that the objecting party is a Settlement Class Member;

(d) a statement of each objection asserted;

(e) a detailed description of the basis and facts underlying and supporting each objection;

(f) a detailed description of the legal authorities, if any, underlying and supporting each objection;

(g) copies of exhibits and/or affidavits, if any, the objecting party may offer during the hearing;

(h) a list of all witnesses, if any, the objecting party may call to testify at the hearing, along with a summary of each witness's anticipated testimony;

(i) the signature, full name, firm name, and business address of all attorneys and all other people and entities who have a financial interest in the objection;

(j) a list of all objections to other class action settlements made or threatened in other cases, including the result of those objections (including but not limited to any financial compensation received therefrom).

6.5 No objector shall be heard and no papers, briefs, or pleadings submitted by any such Settlement Class Member shall be received and considered by the Court unless the Court, Class Counsel, and Defendants' Counsel, receive the objector's written and signed objection at least fourteen (14) days prior to the Final Fairness Hearing. Any Settlement Class Member who

fails to object in the manner described above shall be deemed to have waived all objections of the Settlement Class Member and will be forever barred from making any such objections in the Litigation, in any other action or proceeding, or from taking an appeal of the Final Order in this Litigation. Settlement Class Members who wish to object may, but are not required to, obtain counsel at their own expense to represent them in connection with any such objection and are allowed but not required, to appear in person before the Court at the Final Fairness Hearing. Settlement Class Members who submit objections may be required by the Court to submit bonds reflecting the full cost of delayed payment of claims and of the Settlement Fund.

ARTICLE VII

THE SETTLEMENT FUND AND ADMINISTRATION OF THE SETTLEMENT

7.1 Defendants will make available up to \$40,000,000 in Settlement funds (“the Settlement Fund”) for the payment of claims, attorneys’ fees, Expenses, Administration Expenses, and class representative incentive awards.

7.2 To be eligible to receive a monetary payment as part of this settlement, a Settlement Class Member must submit a properly completed claim form .Any Settlement Class Member that desires to be eligible for a monetary payment as part of this settlement must only complete one claim form regardless of how many accounts or sites exist for such Settlement Class Member.

(a) Class members may be eligible to receive either an account number claim or a contract claim. Any Settlement Class Member may pursue an account number claim by submitting a claim form identifying the settlement class member’s account number. Any Settlement Class Member, except those Settlement Class Members who submit an account number claim, can pursue a contract claim by submitting a claim form that attests that the Settlement Class Member paid rate increases during the Class Period and that attaches (i) the Settlement Class Member’s contract with a Defendant during the class period and under which it paid price increases and (ii) an invoice showing the service rate charged to the Settlement Class Member is higher than the rate shown on the face of such contract.

(b) Subject to Section 7.2(c), Settlement Class Members who submit an account number claim are eligible to receive \$100. Subject to Section 7.2(c), Settlement Class Members who submit a contract claim and do not submit an account number claim are eligible to receive a payment between \$200 and \$250. The amount of a contract claim will be determined by the size of the Settlement Class. If the Settlement Class contains 190,001 or more Settlement Class Members, the amount of each contract claims will be \$200.00. If the Settlement Class contains between 180,001 and 190,000 Settlement Class Members, the amount of each contract claim will be \$210.00. If the Settlement Class contains between 170,001 and 180,000 Settlement Class Members, the amount of each contract claim will be \$220.00. If the Settlement Class contains between 160,001 and 170,000 Settlement Class Members, the amount of each contract claim will be \$230.00. If the Settlement Class contains between 150,001 and 160,000 Settlement Class Members, the amount of each contract claim will be \$240.00. If the Settlement Class contains 150,000 or fewer Settlement Class Members, the amount of each contract claim will be \$250.00. The Parties shall agree on the number of the Members of the Settlement Class and notify the Court of that number within 30 days of Preliminary Approval.

(c) All claims payments to Settlement Class Members are subject to pro-rata reduction if the value of all valid claims received exceeds the Net Settlement Fund.

7.3 Defendants shall provide the Settlement Administrator with customer information necessary to administer the settlement and to distribute funds which includes the Customers' name, last known physical address and account number. Using this information, the Settlement Administrator shall award and distribute to each Settlement Class Member that is a former customer who submits a valid and timely claim form its pro rata share of the Net Settlement based upon the total number of Settlement Class Members who received Class Notice subject to the Claims Cap. Settlement Class Members that are current customers and submit a valid and timely claim form will receive payment in the form of an automatic credit to their invoices. Such credit will be issued by Defendants within 135 days following Final Approval.

7.4 All claims forms must be received by the Settlement Administrator on or before sixty (60) days following the Final Order. The Settlement Administrator shall report all of the Claims made to Defendants seventy (70) days following the Final Order. Defendants shall have the right to evaluate the validity and amount of any claims made by Settlement Class Members and provide that information to the Settlement Administrator.

7.5 Within one-hundred-and-twenty (120) days of Final Approval, Defendants shall cause the total amount validly and timely claimed by Settlement Class Members who are former customers to be transferred to the Settlement Administrator. The Settlement Administrator shall distribute the settlement compensation to Settlement Class Members who are former customers and who submitted valid and timely claims as determined by the Settlement Administrator as set forth herein within one-hundred-and-thirty-five (135) days of Final Approval. Defendants need not pay any Settlement Amount to Settlement Class Members or the Settlement Administrator beyond the amount sufficient to pay valid claims. Defendants need not pay any amount to Plaintiffs' counsel beyond the Court approved attorneys' fees and Expenses. Payments to anyone other than Plaintiffs' Counsel, the Settlement Administrator (including those made to the Settlement Administrator for the benefit of paying valid claims) and credits to existing customers who submit valid claims are permitted under this Settlement Agreement. Any remaining amount in the Settlement Fund after payment of attorneys' fees, Expenses, Administration Expenses and valid claims shall remain with Defendants. Any settlement checks that are issued to Settlement Class Members with valid claims will only remain valid for ninety (90) days, and any unclaimed funds reflected on those checks will remain with Defendants after ninety (90) days if the checks are not cashed.

7.6 Defendants can challenge the validity of Settlement Class Member claims by demonstrating such claimant is not a member of the Settlement Class in that its contract in place during the class period had any of the following terms: (1) a term of one year or less without an auto renewal provision; (2) a term stating that contract automatically renewed for one year or less; (3) an arbitration provision or class-action waiver provision; (4) a rate restriction; (5) a term allowing price increases to achieve or maintain an acceptable operating margin; or (6) rate adjustment clauses that are materially different than those upon which the Litigation is based. Defendants may also challenge the validity of Settlement Class Members claims by demonstrating that such claimant is not a member of the Settlement Class in that it: (1) was not operating under a written, fully-executed agreement during the Class Period; (2) did not pay price increases above

6% plus CPI increased amount; or (3) received credits and/or refunds which offset any price increase amounts paid during the Class Period. Defendants can also challenge the validity of a Settlement Class Member's claims based upon failure to fit within the Settlement Class Definition for any other reason. Such challenges shall be evaluated by the Settlement Administrator which shall inform Class Counsel of its determination.

ARTICLE VIII COMPLETE RELEASE AND DISMISSAL OF CLAIMS

8.1 Plaintiffs, on behalf of themselves and the Settlement Class, by and through Class Counsel, shall do all things necessary under this Settlement Agreement to obtain the entry of a final judgment under the Alabama Rules of Civil Procedure consistent with the terms of this Settlement Agreement. Defendants shall have no further liability to Plaintiffs or any Settlement Class Member arising out of or relating to Plaintiffs' Claims, as alleged in the operative Complaint, and/or Released Claims, it being acknowledged that Defendants are forever purchasing peace from the Settlement Class for all matters arising out of or relating to Plaintiffs' claims as alleged, or which could have been alleged regarding or relating to the Rate Adjustments in the operative Complaint, and arising out of or relating to Released Claims, including but not limited to, any and all claims, whether known or unknown, Plaintiffs or any member of the Settlement Class brought or could have brought against Defendants related to any of the Rate Adjustments involved or allegations asserted in the various class actions that comprise the Litigation, including without limitation, any and all claims at law or equity (whether based in contract, tort, common law, or any other legal or equitable theory) involving the negotiation, assessment, presentation, representation, suppression, or payment which in any regard or relate to the Rate Adjustments. This release is to be construed as broadly as possible as to the matters released.

8.2 Each member of the Settlement Class who does not validly and timely opt-out of the settlement hereby expressly waives and releases any and all provisions, rights or benefits conferred by § 1542 of the California Civil Code or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code, with respect to the Released Claims, provided that reference to § 1542 of the California Civil Code or similar statutes shall not be deemed to convert a specific release into a general release. Section 1542 of the California Civil Code provides:

Section 1542. General Release—Claims Extinguished. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

8.3 Each Settlement Class Member may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the Released Claims, but each member of the Settlement Class who does not validly and timely opt-out of the settlement hereby expressly, fully, finally and forever settles and releases any known or unknown, suspected or unsuspected, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

8.4 As an express element and condition of this Settlement Agreement and the benefits conferred upon the Settlement Class, Plaintiffs, individually and on behalf of the Settlement Class, and with the express approval of the Court, shall settle, compromise, resolve, release, waive, discharge, and terminate any and all of the Plaintiffs' Claims and Released Claims and dismiss the Litigation, without prejudice, upon execution of the final Settlement Agreement. The claims will be dismissed *with* prejudice within ten (10) days of Final Approval.

ARTICLE IX INCENTIVE AWARDS

9.1 Named Plaintiffs shall seek the Court's approval of a total class representative incentive award of \$285,000 from the Settlement Fund. Such amount will be distributed among each of the named Plaintiffs in the above-styled action, and former class representative Buffalo Seafood, LLC, as incentive award for their time and efforts on behalf of the Settlement Class and as settlement of such class representatives' individual claims arising from the Litigation from the Settlement Fund. Defendants do not oppose and will not appeal incentive awards up to these amounts.

9.2 Defendants shall transfer from the Settlement Fund to Class Counsel's trust account the total amount of class representative incentive award approved by the Court within seven (7) days of Final Approval provided that Class Counsel provides Defendants with an IRS Form W-9 completed by Price & Armstrong, LLC and all necessary wire transfer instructions at least 30 days in advance of the payment deadline. Thereafter, Class Counsel shall cause such incentive awards to be distributed to named Plaintiffs upon receipt from Defendants.

9.3 Plaintiffs' agreement to the foregoing incentive awards did not occur until the substantive terms of the settlement, including the relief to the Settlement Class, had been negotiated and agreed upon during mediation. These incentive awards shall constitute sufficient consideration for named Plaintiffs, and are separate from any attorneys' fees.

ARTICLE X ATTORNEYS' FEES AND COSTS

10.1 Class Counsel will petition the Court for an award of attorneys' fees and Expenses to be paid out of the Settlement Fund for all attorney services and Expenses relating to the Litigation, including but not limited to, services rendered and to be rendered in connection with the Settlement Agreement or its implementation.

10.2 The amount of attorneys' fees to be awarded to Class Counsel shall be determined by the Court, but Defendants shall not oppose or appeal any award up to 33 and 1/3% of the Settlement Fund (*i.e.* \$13,333,333) and Plaintiffs' counsel agree not to seek more than 33 and 1/3% of the Settlement Fund in attorneys' fees.

10.3 The amount of reimbursement of litigation Expenses to Class Counsel shall be determined by the Court, but Defendants shall not oppose or appeal any reimbursement of litigation expenses up to \$1,785,000, to be paid out of the Settlement Fund, provided Plaintiffs provide a declaration to Defendants of the break down by category of such expenses prior to final approval being sought, which includes clarification as to which consolidated expenses are included

in this total as well as confirmation, in writing, that none of the expert expenses and other identified expenses relating to the *Pietoso v. Republic Services, Inc. et. al* and *CIS Comm'ns v. Republic Services, Inc., et al.* are included in this total. Plaintiffs hereby agree to not seek an award of Expenses in excess of \$1,785,000.

10.4 The amount of attorneys' fees and Expenses approved by the Court shall be paid by wire transfer to Price Armstrong, LLC as Class Counsel within seven (7) days of Final Approval by Defendants provided that Class Counsel provides Defendants with an IRS Form W-9 completed by Price & Armstrong, LLC and all necessary wire transfer instructions at least 30 days in advance of the payment deadline. Class Counsel shall distribute attorneys' fees and Expenses approved by the Court (including a portion of such fees and Expenses to other counsel for Plaintiffs) as necessary and established by separate agreement(s) among Plaintiffs' counsel. Such payment of attorneys' fees by Defendants shall constitute the only payment of, and entitlement to, attorneys' fees arising out of the Litigation.

10.5 The Parties' discussion of Class Counsel's attorneys' fees and litigation Expenses and Class Counsel's agreement to the foregoing attorney's fees and reimbursement of litigation expenses did not occur until the substantive terms of the Settlement, including the relief to the Settlement Class, had been negotiated and agreed upon during mediation.

ARTICLE XI NO ADMISSION OF LIABILITY

11.1 This Settlement Agreement and the Court Orders effecting this Settlement Agreement are not a concession or admission of wrongdoing or liability by any party hereto and shall not be cited to or otherwise used or construed as an admission of any fault, omission, liability, or wrongdoing on the part of any party hereto.

11.2 Neither this Settlement Agreement, nor the fact of settlement, nor any settlement negotiations or discussions, nor the order or judgment be entered approving this Settlement Agreement, nor any related document shall be deemed an admission, concession, presumption, or inference against any party to this Settlement Agreement. To the contrary, Plaintiffs, on behalf of themselves and the Settlement Class, by and through Class Counsel, acknowledge that legitimate disagreements exist with respect to their claims and Defendants specifically disclaims and denies any liability or wrongdoing whatsoever and have entered into this Settlement Agreement for no purpose other than to avoid future inconvenience and protracted, costly litigation. In addition, except as expressly provided herein, Defendants do not admit or concede that any class can or should be certified, whether under Alabama Rule of Civil Procedure 23, its federal counterpart, or any analogous state rule of civil procedure, whether in litigation or in connection with a different settlement.

ARTICLE XII FAILURE TO OBTAIN COURT APPROVAL

12.1 If the Final Order with all material terms as jointly proposed by the Parties is not entered, or if the Parties are unable to obtain dismissal with prejudice in all courts in which the Litigation is pending, or if this settlement is not finally approved and consummated in all material

respects as provided in this Settlement Agreement, or if the Final Order is reversed on appeal, or if appealed the Final Order is not affirmed in all material respects, this Settlement Agreement shall be null and void for all purposes except that the award of an amount lower than the maximum amount stated in Section 10.2, 10.3 or Section 9.1 shall not cause the Settlement Agreement to be null and void.

12.2 Except as expressly provided herein, in the event the Court certifies a class for settlement purposes that differs in any material way from the Settlement Class defined in this Settlement Agreement, or in the event that the Court modifies or enters an order of settlement at variance in any material way with the terms hereof, or in the event the Final Order is materially modified on appeal, then this Settlement Agreement shall be voidable for all purposes, at the option of the Plaintiffs or Defendant. If the Plaintiffs or Defendants elect to exercise this right, such party must do so in writing, with copies to all counsel of record and to the Court, within thirty (30) days of such order, and any settlement class certified shall be immediately decertified. In the event the class is decertified, this Settlement Agreement and any orders or notices, and any drafts, communications, and discussions regarding this settlement (written or oral) shall be ineffective and inadmissible in evidence for any purpose in the Litigation or any other lawsuit, and such Stipulation shall be deemed terminated unless otherwise agreed to in writing by all Parties hereto or their respective counsel. Also, in the event the class is decertified, Plaintiffs agree to immediately dismiss the consolidated class action complaint so that the individual state class actions can resume in their respective states where they were previously pending. Defendants agreement to submitting this Settlement Agreement to a Jefferson County, Alabama Court solely for purposes of settling these claims and reserve all rights to challenge an Alabama Court's jurisdiction over the merits of all claims in the consolidated class action complaint.

12.3 The Parties acknowledge this is a compromised settlement to resolve claims over which the Parties disagree and is not intended to be used for any other purpose, including without limitation any attempted use should the class be decertified or should this settlement not be approved.

ARTICLE XIII GENERAL PROVISIONS

13.1 **Entire Settlement Agreement.** The foregoing constitutes the entire agreement between the Parties with respect to the any and all claims of the Plaintiffs and putative class members against Defendants in the consolidated actions and may not be modified or amended except in writing signed by all Parties hereto. To the extent this Settlement Agreement differs in any manner whatsoever from prior written or oral agreements regarding the claims of Plaintiffs and putative class members against Defendants, the terms and conditions of this Settlement Agreement shall control. The determination of the terms of and the drafting of, this Settlement Agreement has been by mutual agreement after negotiation, with consideration by, and participation of, all Parties hereto.

13.2 **Governing Law.** This Settlement Agreement shall be interpreted, construed, enforced, and administered in accordance with the laws of Alabama, without regard to conflict of laws rules. This Settlement Agreement shall be enforced solely in the Circuit Court of Jefferson County, Alabama, through the date of Final Approval and until the conclusion of all appeals of that

Final Approval Order (or the expiration of the time to file an appeal if no appeal is filed). The Parties and all members of the Settlement Class waive any objection that each may now have or hereafter have to the venue of such suit, action, or proceeding and irrevocably consent to the jurisdiction of this Court in any such suit, action or proceeding to enforce the terms of this Settlement Agreement through the stated time period, and agree to accept and acknowledge service of any and all process which may be served in such a such suit, action or proceeding to enforce the terms of this Settlement Agreement, except as otherwise set forth herein.

13.3 Best Efforts. All Parties and counsel shall use their best efforts to cause the Court to grant preliminary approval to this Settlement Agreement promptly and to take all steps contemplated by the Settlement Agreement to effectuate the settlement on the stated terms and conditions and, further, to obtain Final Approval. Specifically, Plaintiffs, Class Counsel, Defendants, and Defendants' counsel agree to recommend the settlement contained in this Settlement Agreement as being in the best interests of the Settlement Class under the circumstances, and both Plaintiffs and Defendants agree to oppose any objections submitted by members of the Settlement Class or others to the extent such objections are directed at both Plaintiffs and Defendants. The Parties agree to cooperate in all matters incidental to the proposal of this class settlement, including scheduling of hearings and deadlines and further discovery (except confirmatory discovery, if necessary).

13.4 Dispute Resolution. Should any dispute arise between the Parties regarding this Settlement Agreement, or any matters related or incident thereto, the Parties agree to mediate such dispute with Honorable Layne Phillips (Ret.) with each side (Plaintiffs v. Defendants) to bear ½ of the costs associated with any such mediation. The costs associated with any such mediation will not be paid out of the Settlement Fund. In the event that any such mediation is unsuccessful, the parties can agree to submit their dispute to binding arbitration before Judge Layne Philips (Ret.). However, if the parties do not all agree to submit the dispute to binding arbitration, the parties agree to bring any enforcement action in a California state court in Orange County that occurs the conclusion of any appeals (or the time to appeal) the Final Approval Order.

13.5 Court Filings. No Party shall file any materials with the Court in support of the settlement that are inconsistent with the terms of the Settlement Agreement and without prior approval of the other Parties.

13.6 Binding Effect of Settlement Agreement. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties to this Settlement Agreement, Class Counsel, and the Settlement Class Members, and their respective heirs, predecessors, successors and assigns. Nothing herein shall prevent Defendants from assigning its rights and obligations to the maximum extent permitted by law.

13.7 Execution in Counterpart/Multiple Copies. The Parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument. Electronic copies of the executed Settlement Agreement shall be considered an original and may be relied upon as such.

13.8 Recitals Incorporated by Reference. The Recitals are hereby incorporated by reference as part of the Settlement Agreement between the Parties.

13.9 **Taxes.** All Settlement Class Members shall be responsible for paying any and all federal, state and local taxes, if any, due on the payments made to them pursuant to the settlement provided herein. No opinion concerning the tax consequences of the proposed settlement to Settlement Class Members or anyone else is given or will be given by the Parties or the Parties' counsel, and no representations in this regard made by virtue of this Settlement Agreement.

13.10 **Covenants Of Counsel:** Class Counsel expressly agrees that they will not represent any individual who (i) is a Settlement Class Member who challenges in any way the settlement described in this Settlement Agreement; or (ii) who opts-out or who claims at some later date that they were not bound by the terms of this Settlement Agreement for any reason. It is expressly acknowledged and agreed that no Party will institute, participate in, or encourage any appeal from an order implementing this Settlement Agreement or any objection to the implementation of this Settlement Agreement and settlement; provided, however, any Party has the right to appeal an order which materially alters the terms of this Settlement Agreement (including the consideration to be given by or to any Party).

13.11 **No Other Financial Obligations on Settlement Class Members.** Settlement Class Members shall not be liable or obligated to pay any fees, expenses, costs, or disbursements to the Named Plaintiffs, Class Counsel, or Settlement Class, either directly or indirectly, in connection with the Litigation or this Settlement Agreement other than the amounts expressly provided for herein or as approved by the Court.

13.12 **No Other Financial Obligations on Defendants.** Defendants shall have no further obligations or liabilities to pay any fees, expenses, costs, or disbursements to Plaintiffs, Class Counsel, Settlement Administrator, or Settlement Class, either directly or indirectly, in connection with the litigation or this Settlement Agreement once all payments are made from the Settlement Fund as set out herein.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have caused this Settlement Agreement to be executed as of this 12th day of December 2025.

[signature pages to follow]



John B. Nickerson

Vice President, Assistant Secretary

On behalf of Republic Services of South Carolina, LLC, Allied Waste Services of North America, LLC, Allied Waste Transportation, Inc., Allied Waste Systems, Inc., BFI Waste Services of Texas, LP, BFI Waste Services LLC, Tri-County Refuse Services, Inc., Republic Services of Ohio Hauling, LLC, BFI Waste Services of Indiana, LP, Republic Services of Pennsylvania, LLC, Allied Waste Services of Massachusetts, LLC, Consolidated Disposal Services, LLC.

Signature: New Merkle Investors, LLC

Name: S. Maurice Humphries, Jr.

On behalf of New Merkle Investors, LLC

Signature: _____

Name: _____

On behalf of Woody's Pizzeria, Inc.,

Signature: _____

Name: _____

On behalf of A+ Auto Service, LLC

Signature: _____

Name: _____

On behalf of Budget Inns of Pensacola, Inc.

Signature: New Merkle Investors, LLC

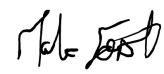
Name: S. Maurice Humphries, Jr.

On behalf of New Merkle Investors, LLC

Signature: 

Name: Todd Webb

On behalf of Woody's Pizzeria, Inc.,

Signature: 

Name: Gabe Foust

On behalf of A+ Auto Service, LLC

Signature: ANMESH PATEL

Name: ANIMESH PATEL

On behalf of Budget Inns of Pensacola, Inc.

Signature: 

Name: Christopher Fletcher

On behalf of The Albany Condo Assoc.

Signature: JD Feldman Properties

Name: Joe Feldman

On behalf of JD Feldman Properties

Signature: Roy Roongseang


Name: Roy Roongseang

On behalf of Hermitage of Ravenswood Condominium Assoc.

Signature: Eva Garibian

Name: Eva Garibian

On behalf of Garibian & Assoc. Accountancy Co.

Signature: 

Name: Brendan Higgins

On behalf of Peel Pizza Co.

Signature: David Galvin

Name: David Galvin

On behalf of Coastal Community Foundation of South Carolina, Inc.,

Signature: Edward P. Stack


Name: Edward P. Stack

On behalf of Michigan Vision Inst., PLLLC

Signature: Isca Harmatz


Name: Isca Harmatz

On behalf of YSH Ameila LLC

Signature: _____

Name: Sukhpreet Kaur

On behalf of MS Auija LLC

Signature: _____


Name: Sara Hamann

On behalf of Red Barn Consulting, Inc.

Signature: Bryce Brewer

Name: Bryce Brewer

On behalf of Bryce Brewer Law Firm, LLC

Signature: _____

Name: Marylee J Grasso

On behalf of Lamark LLC

Signature: 

Name: Amber Justice Vassey

On behalf of Buffalo Seafood House, LLC

Signature: SVO Lawn & Garden Jacob Reass

Name: Jacob Reass

On behalf of SVO Lawn & Garden

Signature: Usanus Siritararatn

Name: Usanus Siritararatn

On behalf of GF Restaurants Group, Inc

Signature: Andrew B. Wade D.D.S., M.S. LLC

Name: Andrew B. Wade

On behalf of Andrew B. Wade D.D.S., M.S. LLC



Notice of Proposed Class Action Settlement in *New Merkle Investors, LLC v. BFI Waste Services, LLC et al.*, No. CV-2021-903302 (Jefferson Cnty. Cir. Ct. Ala.)

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

You are receiving this notice because you were identified as a commercial or industrial customer who received waste hauling and/or recycling services from one of the following entities or their corporate affiliates and paid price increases for those services at some point between January 1, 2017 through September 30, 2025: Allied Waste Services of North America, LLC, Allied Waste Transportation, Inc., Allied Waste Systems, Inc., Allied Waste Services of Massachusetts, LLC, BFI Waste Services of Texas, LP, BFI Waste Services LLC, BFI Waste Services of Indiana, LP, Consolidated Disposal Services, LLC, Republic Services of Ohio Hauling, LLC, Republic Services of Pennsylvania, LLC, Republic Services of South Carolina, LLC, Tri-County Refuse Services, Inc., or any of their sister companies or corporate affiliates (collectively “Defendants”). After years of litigation, significant discovery, and multiple mediations a settlement between the parties has been reached that may affect you as a member of this class.

An Alabama court authorized this notice. This is not a solicitation from a lawyer.

BASIC INFORMATION

1. What is a Notice and why should I read it?

The Court authorized this Notice to inform you about a proposed Settlement with Defendants. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. This Notice explains the lawsuit, the Settlement and your legal rights.

This case is called *New Merkle Investors, LLC v. BFI Waste Services, LLC et al.*, No. CV-2021-903302 (Jefferson Cnty. Cir. Ct. Ala.).

1. Why did I get this Notice?

Defendants’ records show that you received waste hauling or recycling services from Defendants at some point between January 1, 2017 and September 30, 2025 pursuant to a written contract and that the price that you paid for those services increased during that time and therefore you may be a Settlement Class Member. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. This Notice contains only a summary of the Settlement. If you would like to receive a full copy of the Settlement Agreement, including the defined terms used herein, please contact the Settlement Administrator at RG2 Claims Administration LLC, P.O. Box 59479, Philadelphia, PA 19102-9479, Attn: Republic Services Settlement.

2. What is this lawsuit about?

This lawsuit claims that Defendants increased their prices for waste hauling and/or recycling services for contracted commercial and industrial customers by an amount in excess of that

allowed by certain underlying contracts. Defendants deny that they are liable for any claims and deny all allegations because they believe their pricing practices comply with their contracts. More information about the complaint in the lawsuit can be found on the Settlement Website at www.xxxxxxxxxx.com.

3. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or Defendants should win this case. Instead, both sides agreed to settle their claims. That way, they can avoid the uncertainty, risks and expenses of ongoing litigation and Settlement Class Members will be eligible to get compensation now rather than years later—if ever. The Class Representatives and attorneys for the Settlement Class Members, called Class Counsel, agree that the Settlement is in the best interests of the Settlement Class Members. The Settlement is not an admission of wrongdoing by the Defendants. The Court authorized notice to be given solely for the purpose of the settlement. Notice does *not* express the opinion of the Court on the merits of the claims or defenses.

4. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs, called “Class Representatives,” sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In this lawsuit, the Class Representatives are: New Merkle Investors, LLC; Woody’s Pizzeria, Inc.; A+ Auto Service, LLC; Budget Inns of Pensacola, Inc. d/b/a Palm Court Inn; The Albany Condo. Assoc.; JD Feldman Properties; Hermitage of Ravenswood Condominium Association; Garibian & Assoc. Accountancy. Co; Peel Pizza Co.; Coastal Community Foundation of South Carolina, Inc.; Michigan Vision Inst., PLLC; YSH Amelia LLC dba Amelia Plaza Apts.; MS Auija LLC dba Marathon Gas Station; Red Bard Consulting, Inc.; Bryce Brewer Law Firm, LLC; Lamark, LLC; Buffalo Seafood House, LLC; SVO Lawn & Garden; GF Restaurants Group, Inc.; and Andrew B. Wade D.D.S., M.S. LLC.

In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

You may be a part of the Settlement as a Settlement Class Member if you: (1) were an open-market commercial or industrial customer residing in South Carolina, Florida, California, Pennsylvania, Massachusetts, Michigan, Illinois, Texas, Ohio, Indiana, Arkansas, Oklahoma, and Jefferson County, Alabama, (2) entered into an automatically renewing written contract for waste hauling and/or recycling services with Defendants or their corporate affiliates; (4) your contract contained a rate adjustment provision with the following language (or substantially similar language): “Company may, from time to time by notice to Customer, increase the rates provided in this

Agreement to adjust for any increase in: (a) disposal costs; (b) transportation costs due to a change in location of Customer or the disposal facility used by Company; (c) the Consumer Price Index for all Urban Consumers; (d) the average weight per cubic yard of Customer's Waste Materials above the number of pounds per cubic yard upon which the rates provided in this Agreement are based as indicated on the cover page of this Agreement; or (e) Company's costs due to changes in Applicable Laws. Company may increase rates for reasons other than those set forth above with Customer's consent, which may be evidenced verbally, on writing or by the parties' actions and practices"; **and** (5) you paid rate increases in excess of the combined total of 6% for cost increases **plus** the applicable increase in CPI during the applicable Class Periods defined below.

The Class Periods are:

- January 1, 2017 through September 30, 2025, for services received in Florida, California, Illinois and South Carolina.
- June 1, 2019 through September 30, 2025 for services received in Michigan, Ohio, and Indiana.
- August 1, 2021 through September 30, 2025 for services received in Pennsylvania.
- June 1, 2021 through September 30, 2025 for services received in Massachusetts.
- September 30, 2021 through September 30, 2025 for services received in Texas.
- January 1, 2017 through September 30, 2025 for services received in Jefferson County, Alabama.
- January 1, 2017 through December 31, 2018 for services received in Arkansas.
- January 1, 2020 through June 30, 2021 for services received in Oklahoma.

Even if all of the above criteria is met, the Settlement Class excludes any customer: (1) receiving services under the terms of a franchise agreement, (2) whose contract expired and therefore the customer was operating without a written contract, (3) whose contract was not fully executed; (4) who signed a contract form originally drafted by the customer, (5) who signed a contract on or after April 4, 2021 (or whose contract otherwise contained a class action waiver or arbitration provision), (5) who negotiated material changes (which include any restrictions to payment of price increases or an initial or renewal term of one year or less without an auto renewal provision) to the form contract presented by the waste hauling or recycling provider; (6) whose contract contained a term allowing the waste hauling provider or recycling provider to adjust prices to achieve or maintain an acceptable operating margin; (7) received credits and/or refunds which offset any price increase amounts paid during the Class Period.

The Settlement Class also excludes such entities and people who opt out of the Settlement Class as provided in Article V.

6. What are the settlement class member benefits?

Defendants have agreed to make settlement funds available to resolve any valid claims made by Settlement Class Members. You may be entitled to receive a benefit as a Settlement Class Member. Settlement Class Members who submit a valid claim by the deadline (as set out below) may receive payment of one of two different types of claims.

Class members may be eligible to receive either an account number claim or a contract claim. Any Settlement Class Member may pursue an account number claim by submitting a claim form identifying the settlement class member's account number. Any Settlement Class Member, except those Settlement Class Members who submit an account number claim, can pursue a contract claim by submitting a claim form that attests that the Settlement Class Member paid rate increases during the Class Period and that attaches (i) the Settlement Class Member's contract with a Defendant during the class period and under which it paid price increases and (ii) an invoice showing the service rate charged to the Settlement Class Member is higher than the rate shown on the face of such contract.

Settlement Class Members who submit an account number claim are eligible to receive \$100. Settlement Class Members who submit a contract claim and do not submit an account number claim are eligible to receive a payment between \$200 and \$250. The amount of a contract claim will be determined by the size of the Settlement Class. If the Settlement Class contains 190,001 or more Settlement Class Members, the amount of each contract claims will be \$200.00. If the Settlement Class contains between 180,001 and 190,000 Settlement Class Members, the amount of each contract claim will be \$210.00. If the Settlement Class contains between 170,001 and 180,000 Settlement Class Members, the amount of each contract claim will be \$220.00. If the Settlement Class contains between 160,001 and 170,000 Settlement Class Members, the amount of each contract claim will be \$230.00. If the Settlement Class contains between 150,001 and 160,000 Settlement Class Members, the amount of each contract claim will be \$240.00. If the Settlement Class contains 150,000 or fewer Settlement Class Members, the amount of each contract claim will be \$250.00. The Parties will determine the number of the Members of the Settlement Class and notify the Court of that number within 30 days of Preliminary Approval.

Please visit www.XXX.com or contact the Claims Administrator at RG2 Claims Administration, LLC, P.O. Box 59479, Philadelphia, PA, 19102-9479, for a full description of benefits and documentation requirements.

7. What are my rights and options?

You May Submit a Claim: To receive a benefit, you must submit a Claim Form that is electronically available at www.XXX.com. You will be bound by the terms of the Settlement Agreement. The completed Claim Form must be submitted online or received by the Settlement Administrator at the below address **no later than [DATE]**:

RG2 Claims Administration, LLC
P.O. Box 59479

Philadelphia, PA 19102-9479

You May Do Nothing. If you do nothing, upon the Court's final approval of the Settlement Agreement, you will still be legally bound by the terms of the Settlement Agreement. You will also release any and all claims against Defendants (as well as their parent companies, sister companies, corporate affiliates, officers and employees) arising out of or relating directly or indirectly to the facts alleged or which could have been alleged in the underlying lawsuits. This means you will not be able to sue the Defendants for any claims detailed in the release in the Settlement Agreement. This release will affect your rights. To view terms of the release, review the Settlement Agreement, which is available upon request by emailing the Claims Administrator at xxxxxxxx@xxxxxxxx.xxx.

You May Opt Out: Or you may opt-out of the Settlement by [DATE]. To ask to be excluded, you must execute and submit a Request for Exclusion to the RG2 Claims Administration, LLC, P.O. Box 59479, Philadelphia, PA, 19102-9479, postmarked on or before the end of the **Opt-Out Date**. The written notification must include: (1) the full name and address; (2) your signature and/or the signature of your duly authorized representative; and (3) a clear statement that you intend to be excluded from the Settlement Class. If you opt yourself out from the Settlement, you will receive *no benefits* under the Settlement. However, you will not be in the Settlement Class and will not be legally bound by the Court's rulings related to the Settlement Class in this lawsuit.

You May Object: You can also object to the settlement if you do not like it. You can give reasons why you think the Court should not approve it and the Court will consider your view. To object, you must file or send a written objection to **both of the following persons at the below addresses** by **DATE** (the "Objection Deadline") or you will be deemed to have waived all objections:

Oscar M. Price, IV
ATTN: Republic Class Action Objection
Price & Armstrong, LLC
1919 Cahaba Road
Birmingham, Alabama 35223

Meridyth M. Andresen
ATTN: Republic Class Action Objection
Bryan Cave Leighton Paisner, LLP
Two North Central Ave, Ste. 2100
Phoenix, AZ 85004

Upon receipt of these objections, Mr. Price and Ms. Andresen will provide copies of your objection to the Court.

The objection must be in writing and be personally signed by you or your attorney. The objection must include: (1) the Settlement Class Member's full name, current mailing address, telephone number, and e-mail address; (2) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g. copy of the notice, copy

of Class Members' relevant contract(s) with Defendants and evidence that price increases were paid during the class period); (3) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (4) the identity of any and all counsel representing the objector in connection with the objection; (5) a statement as to whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (6) the objector's signature and/or the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); and (7) a list, by case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement within the last three (3) years. To be timely, written notice of an objection in the appropriate form must be received by Mr. Price and Ms. Andresen and contain the case name and number: *New Merkle Investors, LLC v. BFI Waste Services, LLC et al.*, No. CV-2021-903302 (*Jefferson Cnty. Cir. Ct. Ala.*) by the Objection Deadline.

Difference Between Objecting and Opting Out of the Settlement: Objecting simply means telling the Court that you do not like something about the Settlement. You can only object if you stay in the Settlement Class. Opting out of the Settlement Class means you are excluding yourself from the Settlement Class and telling the Court that you do not want to be a part of the Settlement Class. If you opt out of the Settlement Class, you have no basis to object because the case no longer affects you. Do not submit both an objection and a Request for Exclusion form.

THE COURT'S FINAL FAIRNESS HEARING

8. When and where will the Court hold a hearing on the fairness of the Settlement?

The Court is scheduled to hold a Final Approval Hearing on [DATE] at [TIME] at [LOCATION]. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees up to one-third of the Settlement Fund, reimbursement of costs for Class Counsel, and Incentive Awards Class Representatives. A request for approval of such amounts will be filed with the Court and available through the Claims Administrator.

The location, date and time of the Final Fairness Hearing is subject to change by Court order. Any changes will be posted at the Settlement Website, www.xxxxxxxx.com, or through the Court's publicly-available docket. You should check the Settlement Website to confirm the date and time have not changed.

9. Do I need to come to the hearing?

No. You may appear at the hearing but you don't have to. The Court appointed Price Armstrong, LLC and Cory Watson PC as Class Counsel to represent the Settlement Class And they will answer any questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. If your written objection was mailed on time and meets the other criteria described above, the Court will consider it.

However, you may appear on your own behalf or pay a lawyer to attend on your behalf to assert your previously-submitted objection.

10. May I speak at the hearing?

Yes. If you do not exclude yourself from the Settlement Class, you (or your attorney) may appear and speak at the Final Fairness Hearing concerning your part of the proposed Settlement.

ADDITIONAL INFORMATION

11. Where can I get additional information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at www.xxxxxxxx.com or by writing to Claims Administrator at RG2 Claims Administration, LLC, P.O. Box 59479, Philadelphia, PA, 19102-9479 or emailing the Claims administrator at email@rg2claims.com.

PLEASE DO NOT CALL THE COURT, THE CLERK OF COURT, THE JUDGE WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.

BFI Waste Services Settlement
c/o RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479

**LEGAL NOTICE BY ORDER OF CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA**

NEW MERKLE INVESTORS, LLC
V.
BFI WASTE SERVICES, LLC.

ATTENTION! If you received waste hauling or recycling services from Defendants between January 1, 2017 and September 30, 2025 and the price you paid for those services increased during that time, you may be eligible for a payment from a class action settlement.

Learn More At:

www.-----.com

Postal Service: Please do not mark barcode

«BarCode» «MailCode»
«FirstName» «LastName»
«Street»
«Street2»
«City», «State» «Zip»

New Merkle Investors, LLC v. BFI Waste Services, LLC et al., No. CV-2021-903302

How do I get more information? If you wish to file a claim, object, or exclude yourself from the Settlement, you must follow the procedures outlined on the Settlement Website www.bfiwaste.com. **Please do not contact the Court, the Clerk of Court, or the Judge with questions about the settlement of claims process; they are not in a position to give you any advice about the Settlement.**

A proposed Settlement has been reached with BFI Waste Services, LLC and several of its corporate affiliates (collectively "Defendants") arising out of claims that Defendants increased their prices for waste hauling and recycling services for contracted commercial and industrial customers by an amount in excess of that allowed by certain underlying contracts.

Who is Included? Class Members include all individuals who (1) were an open-market commercial or industrial customer residing in South Carolina, Florida, California, Pennsylvania, Massachusetts, Michigan, Illinois, Texas, Ohio, Indiana, Arkansas, Oklahoma, and Jefferson County, Alabama, (2) entered into an automatically renewing written contract for waste hauling and/or recycling services with Defendants or their corporate affiliates; (3) have a contract containing a rate adjustment provision, and (4) you paid rate increases in excess of the combined total of 6% for cost increases **plus** the increase in CPI during the applicable Class Periods. Full details explaining rate adjustment language in contracts and the class periods defined by State can be found in the full Notice document on the Settlement Website at www.bfiwaste.com.

What does the Settlement Provide? Defendants have agreed to make settlement funds available to resolve any valid claims made by Settlement Class Members. You may be entitled to receive a benefit as a Settlement Class Member. Settlement Class Members who submit a valid claim by the deadline (as set out below) may receive either: (A) \$100 with presentment of **their account number**; or (2) \$200 (or possibly more) with presentment of a copy of their contract with one of the Defendants and an invoice reflecting the price increase during the relevant time period. If claims exceed the Net Settlement Amount, the payments to class members will be subject to a pro rata decrease.

How To Get Benefits You must complete and file a Claim Form online or by mail postmarked by **DATE**, including required supporting document. You can file your claim online at www.bfiwaste.com. To file online, your unique Login and Password is required to access the form:

Login: [\[REDACTED\]](#) Password: [\[REDACTED\]](#)

You may also get a paper Claim Form by calling the toll-free number and submitting by mail.

Your Other Options: If you do not want to be legally bound by the terms of the Settlement, you must exclude yourself by **DATE**. If you do not exclude yourself, you will be bound by the terms of this Settlement Agreement and you will release any claim you may have (as defined in the Settlement Agreement) related to the underlying settlement with Defendants, as more fully described in the Settlement Agreement, available on the Settlement Website. If you do not exclude yourself, you may object to the Settlement by **DATE**, as more fully described in the Settlement Agreement, available on the Settlement Website.

The Fairness Hearing: The Court will hold a Final Approval Hearing on **MONTH DD, 20YY, at X:XX a.m./p.m.** before the Honorable Judge Grant of the Circuit Court of Jefferson County, Alabama, **Address**, to consider whether to approve the Settlement, service awards, attorneys' fees and litigation expenses, as well as any objections. You or your attorney may request to appear at the hearing, but you are not required to do so. The hearing may be held remotely, so please check the settlement website for those details.

Please contact us at 1-866-742-4955 or by email at BFIWasteServicesSettlement@gcclaw.com to request a claim form by mail or update your address.

**Your claim must
be submitted online
or postmarked by:**

CLAIM FORM
New Merkle Investors, LLC v. BFI Waste Services, LLC et al
 Case No. *CV-2021-903302*
 Circuit Court of Jefferson County, Alabama

GENERAL INSTRUCTIONS

You are a Settlement Class Member if you received a notice that you were identified as a commercial or industrial customer who received waste hauling and/or recycling services from one of the following entities or their corporate affiliates and paid price increases for those services at some point between January 1, 2017 through September 30, 2025: Allied Waste Services of North America, LLC, Allied Waste Transportation, Inc., Allied Waste Systems, Inc., Allied Waste Services of Massachusetts, LLC, BFI Waste Services of Texas, LP, BFI Waste Services LLC, BFI Waste Services of Indiana, LP, Consolidated Disposal Services, LLC, Republic Services of Ohio Hauling, LLC, Republic Services of Pennsylvania, LLC, Republic Services of South Carolina, LLC, Tri-County Refuse Services, Inc., or any of their sister companies or corporate affiliates (collectively “Defendants”). After years of litigation, significant discovery, and multiple mediations a settlement between the parties has been reached that may affect you as a member of this class. You may submit a claim for settlement benefits, outlined below. You are eligible for monetary recovery in this settlement if you submit a valid and approved claim in the settlement of *New Merkle Investors, LLC v. BFI Waste Services, LLC et al*, Case No. *CV-2021-903302* (*Jefferson Cnty. Cir. Ct. Ala.*). Please refer to the Long-Form Notice posted on the Settlement Website www.XXXXXXXXXX.com, for more information on submitting a Claim Form.

The Claim Form may be submitted online on the Settlement Website or may be mailed to the address below. Please type or legibly print all requested information, in blue or black ink. Mail your completed Claim Form, including any supporting documentation, by U.S. mail to:

BFI Waste Services Settlement
 c/o RG/2 Claims Administration LLC
 P.O. Box 59479
 Philadelphia, PA 19102-9479

You may submit a claim for the following payment options:

- 1) **Tier 1 Payment:** This payment option requires you to provide an **account number**.
- 2) **Tier 2 Payment:** This payment option requires you to provide a copy of the **contract** at the time of the alleged improper price increase, an **invoice** reflecting the price increase and **attestation** that you paid the increased prices during the class period (see Question 5 on the Long-Form Notice located on the Settlement Website for the Class Period relative to your state). If the account number is not listed on the contract or invoice, you will need to provide the **account number**, as well.

I. PAYMENT SELECTION

If you would like to elect to receive your Settlement Claim payment through electronic transfer, please visit the Settlement Website and timely file your Claim Form. The Settlement Website includes a step-by-step guide for you to complete the electronic payment option.

II. SETTLEMENT CLASS MEMBER NAME AND CONTACT INFORMATION

Provide your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit this Claim Form.

Customer Name

Address 1

Address 2

City State Zip Code

Email Address (*Required if requesting electronic payment*) @

Telephone Number: (_____) _____ - _____

III. PAYMENT ELIGIBILITY INFORMATION

You may choose either a **Tier 1** payment option or **Tier 2** payment option. Required information and documentation must be submitted along with the claim form to be considered a valid claim.

Tier 1 Payment Option

Check this box if **Tier 1 Payment** Requested

Account Number (Required): _____

Tier 2 Payment Option

Check this box if **Tier 2 Payment** Requested

Copy of **Contract** at the time of alleged improper price increase attached

Copy of **Invoice** reflecting price increase attached

Account Number, if not shown on the attached Contract or Invoice

IV. ATTESTATION & SIGNATURE

By signing my name below, I swear and affirm that the information included on this Claim Form is true and accurate, and that I am completing this claim form to the best of my personal knowledge. I further swear and affirm that I paid the increased prices during the class period as defined in the Long-Form Notice. I understand that I may be asked to provide supplemental information by the Claims Administrator before my claim will be considered complete and valid.

Signature

Date

Print Name



**CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
TENTH JUDICIAL CIRCUIT**

NEW MERKLE INVESTORS, LLC, et al.,

Plaintiffs,

vs.

BFI WASTE SERVICES LLC et al.,

Defendant.

Case No.: 01-CV-2021-903302.00

**[PROPOSED] ORDER PRELIMINARY APPROVING SETTLEMENT
AND PROVIDING FOR NOTICE TO THE SETTLEMENT CLASS**

Plaintiffs, without objection from Defendant, have made application for an order approving the settlement of this litigation, in accordance with the Settlement Agreement which, together with its exhibits, sets out the terms and conditions of the proposed settlement and notice to the Settlement Class. Having reviewed the filings and conducted a hearing to consider the same, for good cause shown, the Motion for Preliminary Approval is GRANTED and it is further HEREBY ORDERED:

1. Pursuant to Alabama Rule of Civil Procedure 23, the Court preliminarily certifies, for purpose of effectuating the settlement only, the following Settlement Class:

All open-market commercial and industrial customers who reside in South Carolina, Florida, California, Pennsylvania, Massachusetts, Michigan, Illinois, Texas, Ohio, Indiana, Arkansas, Oklahoma, and Jefferson County, Alabama, who entered into an automatically renewing written contract for waste hauling services and/or recycling services with direct or indirect subsidiaries and affiliates of Republic Services, Inc. ("RSI") during the Class Period and whose contract contained a rate adjustment provision that allowed for unilateral increases to adjust for increases in various enumerated costs and CPI as well as an optional cost

increases based upon the customers' consent and who paid rate increases in excess of the combined total for cost increases plus the applicable increase in CPI at the relevant time period.”^{1 2}

2. With regard to the Settlement Class, the Court preliminarily finds that for settlement purposes (a) the Settlement Class is so numerous that joinder of all individual Settlement Class members in a single proceeding is impracticable; (b) questions of law and fact common to all Settlement Class Members predominate over any potential individual questions; (c) the claims of the Plaintiffs are typical of the claims of the Settlement Class; (d) Named Plaintiffs and proposed Class Counsel will fairly and adequately represent the interests of the Settlement Class; and (e) a class action is the superior method to fairly and efficiently adjudicate this controversy.

3. The Court appoints New Merkle Investors, LLC; Woody's Pizzeria, Inc.; A+ Auto Service, LLC; Budget Inns of Pensacola, Inc. d/b/a Palm Court Inn; The Albany Condo. Assoc.; JD Feldman Properties; Hermitage of Ravenswood Condominium Association; Garibian & Assoc. Accountancy. Co; Peel Holdings LLC dba Peel Pizza Co.; Coastal Community Foundation of

¹ Excluded from the Class are any customer (1) receiving services under the terms of a franchise agreement; (2) whose agreement expired and therefore the customer was operating without a written contract; (3) whose contract was not fully executed; (4) who signed a contract form originally drafted by the customer; (5) who signed a contract on or after April 4, 2021 (or whose contract otherwise contained a class action waiver or arbitration provision), or; (6) who negotiated material changes (which include any restrictions to payment of price increases or a term of one year or less without an auto renewal term) to the form contract presented by the waste hauling provider.

² The Class Period for the foregoing class is January 1, 2017, through September 30, 2025, inclusive of both the start and end dates for customers in Florida, California, Illinois and South Carolina; for customers located in Michigan, Ohio, and Indiana, the Class Period shall be June 1, 2019 through September 30, 2025; for customers located in Pennsylvania the Class Period shall be August 1, 2021 through September 30, 2025; for customers located in Massachusetts the Class Period shall be June 1, 2021 through September 30, 2025; for customers located in Texas the Class Period shall be September 30, 2021 through September 30, 2025; for customers located in Alabama the Class Period shall be January 1, 2017 through September 30, 2025; for customers located in Arkansas the Class Period shall be January 1, 2017 through December 31, 2018; for customers located in Oklahoma the Class Period shall be January 1, 2020 through June 30, 2021.

South Carolina, Inc.; Michigan Vision Inst., PLLC; YSH Amelia LLC dba Amelia Plaza Apts.; MS Auja LLC dba Marathon Gas Station; Red Barn Consulting, Inc.; Bryce Brewer Law Firm, LLC; Lamark, LLC; Buffalo Seafood House, LLC; SVO Lawn & Garden LLC; GF Restaurants Group, Inc. dba Crying Thaiger; and Andrew B. Wade D.D.S., M.S. LLC dba Wade Orthodontics as representatives of the Settlement Class.

4. The Court appoints Oscar M. Price, IV and Nicholas W. Armstrong, of Price Armstrong, LLC, H. Ryan Lutz of Cory Watson, and Ken Simon of Christian & Small LLP as Class Counsel for the Settlement Class.

5. The terms of the Settlement, as set out in the Settlement Agreement submitted to the Court, are fair, reasonable, and adequate, and the Court therefor grants preliminary approval. In making this determination, the Court considered the fact that the Settlement is the product of arm's-length negotiations facilitated by a well-respected and neutral mediator, reached only after extensive litigation by experienced and knowledgeable counsel, the benefits of the Settlement to the Settlement Class, and the risks and benefits of continuing litigation to the Parties and the Settlement Class.

6. The Court approves, as to form and content, the notice plan to the Settlement Class proposed in the Settlement Agreement and Motion for Preliminary Approval and finds that this notice is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to the members of the Settlement Class.³

7. Any Settlement Class Member may request to be excluded from the Settlement Class as set out in the Settlement Agreement and procedures presented to the Court. Such requests

³ The Motion For Preliminary Approval notes that payments to members of the Settlement Class will be made by check (regardless of whether they are current or former customers), and the Court approves such a method.

for exclusion must be received Settlement Administrator, Class Counsel, and Defendant's Counsel at least 14 days before Final Fairness Hearing and must otherwise comply with the requirements set forth in the Class Notice documents and Settlement Agreement. If the Court grants final approval of the Settlement Agreement and enters final judgment, all members of Settlement Class who have not submitted valid requests for exclusion shall be bound by the Final Judgment.

8. The Court will hold a Final Approval Hearing, in the Courtroom of the Honorable Shera Grant, Circuit Court of Jefferson County, Alabama, Birmingham Division, 716 Richard Arrington Jr. Blvd. N., Room 650, Birmingham, Alabama 35203, to consider: (a) whether certification of the Settlement Class for settlement purposes only should be confirmed; (b) whether the Settlement should be approved as fair, reasonable, adequate and in the best interests of the Settlement Class; (c) the application by Class Counsel for an award of attorneys' fees, costs, and expenses as provided for under the Settlement Agreement; (d) the application for Named Plaintiffs' incentive awards as provided for under the Settlement Agreement; (e) whether the release of Released Claims as set forth in the Settlement Agreement should be provided; (f) whether the Court should enter the [Proposed] Final Approval Order and [Proposed] Judgment; and (g) ruling upon such other matters as the Court may deem just and appropriate. The Final Approval Hearing will be set by the Court at later date after the Parties contact the Court as to the date Notice will be sent to the Settlement Class, as set out further below. The Final Approval Hearing may, without further notice to Settlement Class Members, be reset continued or adjourned by order of the Court.

9. Any member of the Settlement Class who wishes to object to the settlement may do so by filing a written objection with the Court and delivering a copy at least 21 days before Final Fairness Hearing and must otherwise comply with the requirements set forth in the Class

Notice documents and Settlement Agreement. No objector shall be heard and no objection shall be considered unless it complies with these requirements. The Court may impose additional requirements on objectors as it deems necessary or appropriate, including the posting of bond and providing of testimony or other discovery.

10. Members of the Settlement Class may appear at the Final Fairness Hearing, at their own expense, individually or through counsel of their choice, by complying with the notice provisions set forth in the Class Notice documents and Settlement Agreement. If they do not enter an appearance, they will be represented by Class Counsel. If the Court grants final approval of the Settlement Agreement and enters final judgment, all members of the Settlement Class who have not given appropriate notice of their intent to appear individually in accordance with the procedures outlined in the Class Notice documents and Settlement Agreement shall be deemed to have waived their right.

11. All filings in support of Final Approval and the distribution of attorney's fees and expenses, and class representative incentive awards, shall be filed and served no later than seven days before the Final Fairness Hearing.

12. The Court further enters the following timeline for events preceding the Final Approval Hearing.

1. **Notice Date:** the Settlement Administrator issues the approved Notice no later than sixty days (60) days after the Court has entered the Preliminary Approval Order;

3. **Claims Deadline:** Claim forms must be postmarked or electronically submitted to the Settlement Website within thirty (30) days after the Final Approval Order is entered;

4. **Deadline for Opt-Outs / Objections:** Settlement Class Members must submit their Requests for Exclusion, pursuant to the terms and conditions in the Settlement Agreement, within shall be forty (45) days following the Notice Date;

6. **Submission of Papers in Support of Attorneys' Fees and Expenses:** must be filed no later than seven (7) days prior to the Deadline for Opt-Outs / Objections;

7. **Submission of Papers in Support of Final Approval of Settlement and in Response to any Objections:** must be filed no later than seven (7) days prior to the date of the Final Approval Hearing; and

8. **Final Approval Hearing:** will occur no earlier than sixty (60) days after the Notice Date. The parties shall contact the court upon the Notice Date being determined to schedule this date.

Hon. Shera Grant



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
 BIRMINGHAM DIVISION**

NEW MERKLE INVESTORS, LLC,)
 WOODY S PIZZERIA, INC.,)
 A+ AUTO SERVICE, LLC,)
 BUDGET INNS OF PENSACOLA, INC. D/B/A)
 PALM COURT IN ET AL,)
 Plaintiffs,)

V.) Case No.: CV-2021-903302.00

REPUBLIC SERVICES, INC.,)
 BFI WASTE SERVICES, LLC,)
 REPUBLIC SERVICES OF SOUTH)
 CAROLINA, LLC,)
 ALLIED WASTE SERVICES OF NORTH)
 AMERICA, LLC ET AL,)
 Defendants.)

**ORDER PRELIMINARY APPROVING Settlement and PROVIDING FOR NOTICE TO
 THE SETTLEMENT CLASS**

**[PROPOSED] ORDER PRELIMINARY APPROVING SETTLEMENT
 and PROVIDING FOR NOTICE TO THE SETTLEMENT CLASS**

Plaintiffs, without objection from Defendant, have made application for an order approving the settlement of this litigation, in accordance with the Settlement Agreement which, together with its exhibits, sets out the terms and conditions of the proposed settlement and notice to the Settlement Class. Having reviewed the filings and conducted a hearing to consider the same, for good cause shown, the Motion for Preliminary Approval is GRANTED and it is further
 HEREBY ORDERED:

1. Pursuant to Alabama Rule of Civil Procedure 23, the Court preliminarily certifies, for purpose of effectuating the settlement only, the following Settlement Class:

All open-market commercial and industrial customers who reside in South Carolina, Florida, California, Pennsylvania, Massachusetts, Michigan, Illinois, Texas, Ohio, Indiana, Arkansas, Oklahoma, and Jefferson County, Alabama, who entered into an automatically renewing written contract for waste hauling services and/or recycling services with direct or indirect subsidiaries and affiliates of Republic Services, Inc. (“RSI”) during the Class Period and whose contract contained a rate adjustment provision that allowed for unilateral increases to adjust for increases in various enumerated costs and CPI as well as an optional cost increases based upon the customers’ consent and who paid rate increases in excess of the combined total for cost increases plus the applicable increase in CPI at the relevant time period.” [1] [2]

2. With regard to the Settlement Class, the Court preliminarily finds that for settlement purposes (a) the Settlement Class is so numerous that joinder of all individual Settlement Class members in a single proceeding is impracticable; (b) questions of law and fact common to all Settlement Class Members predominate over any potential individual questions; (c) the claims of the Plaintiffs are typical of the claims of the Settlement Class; (d) Named Plaintiffs and proposed Class Counsel will fairly and adequately represent the interests of the Settlement Class; and (e) a class action is the superior method to fairly and efficiently adjudicate this controversy.

3. The Court appoints New Merkle Investors, LLC; Woody’s Pizzeria, Inc.; A+ Auto Service, LLC; Budget Inns of Pensacola, Inc. d/b/a Palm Court Inn; The Albany Condo. Assoc.; JD Feldman Properties; Hermitage of Ravenswood Condominium Association; Garibian & Assoc. Accountancy. Co; Peel Holdings LLC dba Peel Pizza Co.; Coastal Community Foundation of South Carolina, Inc.; Michigan Vision Inst., PLLC; YSH Amelia LLC dba Amelia Plaza Apts.; MS Aujla LLC dba Marathon Gas Station; Red Barn Consulting, Inc.; Bryce Brewer Law Firm, LLC; Lamark, LLC; Buffalo Seafood House, LLC; SVO Lawn & Garden

LLC; GF Restaurants Group, Inc. dba Crying Thaiger; and Andrew B. Wade D.D.S., M.S. LLC dba Wade Orthodontics as representatives of the Settlement Class.

4. The Court appoints Oscar M. Price, IV and Nicholas W. Armstrong, of Price Armstrong, LLC, H. Ryan Lutz of Cory Watson, and Ken Simon of Christian & Small LLP as Class Counsel for the Settlement Class.

5. The terms of the Settlement, as set out in the Settlement Agreement submitted to the Court, are fair, reasonable, and adequate, and the Court therefor grants preliminary approval. In making this determination, the Court considered the fact that the Settlement is the product of arm's-length negotiations facilitated by a well-respected and neutral mediator, reached only after extensive litigation by experienced and knowledgeable counsel, the benefits of the Settlement to the Settlement Class, and the risks and benefits of continuing litigation to the Parties and the Settlement Class.

6. The Court approves, as to form and content, the notice plan to the Settlement Class proposed in the Settlement Agreement and Motion for Preliminary Approval and finds that this notice is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to the members of the Settlement Class.^[3]

7. Any Settlement Class Member may request to be excluded from the Settlement Class as set out in the Settlement Agreement and procedures presented to the Court. Such requests for exclusion must be received Settlement Administrator, Class Counsel, and Defendant's Counsel at least 14 days before Final Fairness Hearing and must otherwise comply with the requirements set forth in the Class Notice documents and Settlement Agreement. If the Court grants final approval of the Settlement Agreement and enters final judgment, all members of Settlement Class who have not submitted valid requests for exclusion shall be bound by the Final Judgment.

8. The Court will hold a Final Approval Hearing, in the Courtroom of the Honorable Shera Grant, Circuit Court of Jefferson County, Alabama, Birmingham Division, 716 Richard Arrington Jr. Blvd. N., Room 650, Birmingham, Alabama 35203, to consider: (a) whether certification of the Settlement Class for settlement purposes only should be confirmed; (b) whether the Settlement should be approved as fair, reasonable, adequate and in the best interests of the Settlement Class; (c) the application by Class Counsel for an award of attorneys' fees, costs, and expenses as provided for under the Settlement Agreement; (d) the application for Named Plaintiffs' incentive awards as provided for under the Settlement Agreement; (e) whether the release of Released Claims as set forth in the Settlement Agreement should be provided; (f) whether the Court should enter the [Proposed] Final Approval Order and [Proposed] Judgment; and (g) ruling upon such other matters as the Court may deem just and appropriate. The Final Approval Hearing will be set by the Court at later date after the Parties contact the Court as to the date Notice will be sent to the Settlement Class, as set out further below. The Final Approval Hearing may, without further notice to Settlement Class Members, be reset continued or adjourned by order of the Court.

9. Any member of the Settlement Class who wishes to object to the settlement may do so by filing a written objection with the Court and delivering a copy at least 21 days before Final Fairness Hearing and must otherwise comply with the requirements set forth in the Class Notice documents and Settlement Agreement. No objector shall be heard and no objection shall be considered unless it complies with these requirements. The Court may impose additional requirements on objectors as it deems necessary or appropriate, including the posting of bond and providing of testimony or other discovery.

10. Members of the Settlement Class may appear at the Final Fairness Hearing, at their own expense, individually or through counsel of their choice, by complying with the notice provisions set forth in the Class Notice documents and Settlement Agreement. If they do not enter an appearance, they will be represented by Class Counsel. If the Court grants final approval of the Settlement Agreement and enters final judgment, all members of the Settlement Class who have not given appropriate notice of their intent to appear individually in accordance with the procedures outlined in the Class Notice documents and Settlement Agreement shall be deemed to have waived their right.

11. All filings in support of Final Approval and the distribution of attorney's fees and expenses, and class representative incentive awards, shall be filed and served no later than seven days before the Final Fairness Hearing.

12. The Court further enters the following timeline for events preceding the Final Approval Hearing.

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3. **Claims Deadline:** Claim forms must be postmarked or electronically submitted to the Settlement Website within thirty (30) days after the Final Approval Order is entered;

4. **Deadline for Opt-Outs / Objections:** Settlement Class Members must submit their Requests for Exclusion, pursuant to the terms and conditions in the Settlement Agreement, within shall be forty (45) days following the Notice Date;

6. **Submission of Papers in Support of Attorneys' Fees and Expenses:** must be filed no later than seven (7) days prior to the Deadline for Opt-Outs / Objections;

7. **Submission of Papers in Support of Final Approval of Settlement and in Response to any Objections:** must be filed no later than seven (7) days prior to the date of the Final Approval Hearing; and

8. **Final Approval Hearing:** will occur no earlier than sixty (60) days after the Notice Date. The parties shall contact the court upon the Notice Date being determined to schedule this date.

[1] Excluded from the Class are any customer (1) receiving services under the terms of a franchise agreement; (2) whose agreement expired and therefore the customer was operating without a written contract; (3) whose contract was not fully executed; (4) who signed a contract form originally drafted by the customer; (5) who signed a contract on or after April 4, 2021 (or whose contract otherwise contained a class action waiver or arbitration provision), or; (6) who negotiated material changes (which include any restrictions to payment of price increases or a term of one year or less without an auto renewal term) to the form contract presented by the waste hauling provider.

[2] The Class Period for the foregoing class is January 1, 2017, through September 30, 2025, inclusive of both the start and end dates for customers in Florida, California, Illinois and South Carolina; for customers located in Michigan, Ohio, and Indiana, the Class Period shall be June 1, 2019 through September 30, 2025; for customers located in Pennsylvania the Class Period shall be August 1, 2021 through September 30, 2025; for customers located in Massachusetts the Class Period shall be June 1, 2021 through September 30, 2025; for customers located in Texas the Class Period shall be September 30, 2021 through September 30, 2025; for customers located in Alabama the Class Period shall be January 1, 2017 through September 30, 2025; for customers located in Arkansas the Class Period shall be January 1, 2017 through December 31, 2018; for customers located in Oklahoma the Class Period shall be January 1, 2020 through June 30, 2021.

[3] The Motion For Preliminary Approval notes that payments to members of the Settlement Class will be made by check (regardless of whether they are current or former customers), and the Court approves such a method.

DONE this[To be filled by the Judge].

/s/[To be filled by the Judge]

CIRCUIT JUDGE