

**RESOLUTION 2022-49
RADNOR TOWNSHIP**

**A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA,
APPROVING AN AGREEMENT BETWEEN THE TOWNSHIP OF RADNOR AND
RETRIEVR, INC., FORMERLY CURB MY CLUTTER, LLC**

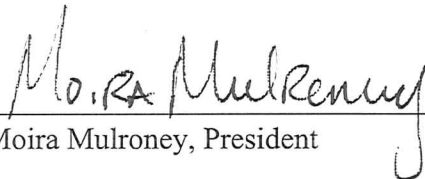
WHEREAS, Radnor Township desires to enter into a twelve (12) month Agreement, thereafter renewing monthly until wither party provides written notice at least sixty (60) day prior to termination of the agreement.

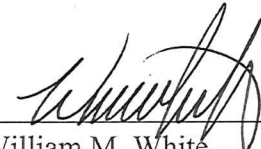
WHEREAS, the Township desires to optimize the collection of certain recyclable items from its residents.

NOW, THEREFORE, be it resolved that the Board of Commissioners of Radnor Township does hereby approve the Agreement a copy of which is attached hereto as Exhibit "A".

SO RESOLVED this 9th day of May, 2022.

RADNOR TOWNSHIP

By: 
Moira Mulrone, President

ATTEST: 
William M. White
Township Manager/Secretary

RETRIEVR, INC
SAAS AGREEMENT

This SAAS AGREEMENT (this "Agreement"), effective as of May 9, 2022 ("Effective Date"), is made by and between Retrievr, Inc, a Delaware limited liability company ("Retrievr"), and the undersigned municipality (the "Township," and together with Retrievr, the "Parties," and each, a "Party").

WHEREAS, Retrievr is a SaaS (Software as a Service) provider that helps municipalities optimize the collection from its residents of, and processing by such municipalities of, certain recyclable items;

WHEREAS, the Township desires to optimize the collection from its residents of, and processing by the Township of, certain recyclable items; and

WHEREAS, the Township and Retrievr desire for Retrievr to collect certain recyclable items from the Township's residents and optimize and monetize the processing thereof, on the terms and subject to the conditions hereof (the "Retrievr Program").

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

I. Retrievr Services. During the term hereof, Retrievr agrees to do the following:

1.1 *Customization of Platform*. Retrievr shall customize its digital platform, including, without limitation, the software comprising the digital platform (the "Platform"), for the Township to include the scheduling ("Scheduling") of collections ("Collections") of textile and e-waste (collectively, "Recyclable Materials"), from residents of the Township (the "Residents"), which Collections shall be scheduled via text messages from Residents' mobile phones. Any customization of the Platform shall be as mutually agreed between Retrievr and the Township.

1.2 *Management of Scheduling and Collection Process*. Retrievr shall use commercially reasonable efforts to:

(a) provide curbside Collection of Recyclable Materials, subject to Scheduling with Residents;

(b) provide offsite storage and sorting of all Recyclable Materials collected by Retrievr from Residents;

(c) manage and respond to Residents' requests and concerns generated during the Scheduling and Collection processes for Recyclable Materials;

(d) market and sell the Recyclable Materials that Retrievr collects from the Residents to processors ("Processors") for the re-use, de-manufacturing or scrapping of such Recyclable Materials; and

(e) build a network of brands that will offer rewards programs to Residents scheduling Collections through Retrievr.

1.3 *Branding of Personnel and Vehicles*. All Retrievr personnel (including its employees or independent contractors) who make Collections shall wear uniforms or otherwise be clearly

marked with identifying logos and marks, and will clearly display Retrievr logos or marks on any vehicles used by them in the provision of the Collections.

2. Licenses to Use of Platform.

2.1 *Grant of Licenses.* Retrievr shall provide access and a non-exclusive, non-assignable, non-transferable, non-licensable, revocable license to up to three (3) employees of the Township ("Licensees") to access the back end of the Platform using a management interface, such that the Licensees may access reports and other data regarding Collections, including an inventory of items scheduled for Collections; *provided, that*, each of the Licensees agrees in advance, in writing, to be bound by the obligations of Sections 2.2, 2.3, and 2.5 of this Agreement.

2.2 *Prohibited Activities.* Except as expressly authorized herein, the Township and each Licensee are prohibited from and shall not undertake, cause, or permit any: (a) copying or modification of the Platform; (b) creating derivative works based on all or any portion of the Platform; (c) removal or modification of any notice of any patent, copyright, trademark or other proprietary rights that appear on or in the Platform; (d) reverse engineering, de-compilation, translation, disassembly or discovery of the source code of all or any portion of the Platform; (e) distribution, disclosure, marketing, leasing, reselling, assigning, loaning, sublicensing, renting, pledging, offering as security or transferring to any third party, including the Residents, of the Platform, or use of the Platform for any dial-up, third party data or third party network management services, remote access, interactive or other service; (f) merging of the Platform into or with another product; or (g) use of the Platform beyond the term or after expiration or termination of this Agreement.

2.3 *Confidentiality.* The Township and each Licensee agrees to protect and maintain the confidentiality of the Platform, and not to disclose the Platform to any third parties except as expressly permitted in this Agreement. The Township and each Licensee acknowledges that its breach of confidentiality shall cause Retrievr irreparable injury and entitle Retrievr to obtain equitable relief, in addition to all other remedies available to it. The confidentiality obligations hereunder shall survive the termination or expiration of this Agreement.

2.4 *Limited License.* The Township and each Licensee further acknowledges that it is acquiring only a limited license to use the Platform and not any title to or ownership of the Platform or any part thereof and that the Platform is proprietary to and copyrighted by Retrievr. **THE PLATFORM IS COPYRIGHTED AND LICENSED, NOT SOLD.**

2.5 *Data Privacy.* Neither the Township and nor any Licensee shall use any personal identifiable information ("PII") of any Resident obtained via the Platform for any purpose and must safeguard all such PII in accordance with all applicable laws.

2.6 *Ownership of Platform.* Retrievr retains all title, ownership, interests and intellectual property rights in and to the Platform, including, without limitation, and customizations thereof and improvements or modifications thereto, and deems the Platform, and any such improvements, modifications, or customizations, to be confidential information. To the extent the Platform contains any materials licensed from third parties, third party suppliers may own such licensed materials. Retrievr retains all rights not expressly granted to the Township and Licensees in this Agreement.

3. Marketing of Retrievr Program; Co-Branding Opportunities; Public Releases.

3.1 *Retrievr Obligations.* Retrievr shall (a) work together with the Township to create co-branded advertising and educational materials ("Materials") to engage residents on the Retrievr

Program, (b) to the extent determined by Retrievr in Retrievr's sole discretion, supply funding for the printing and distribution of such Materials to Residents, and (c) to the extent determined by Retrievr in Retrievr's sole discretion, advocate with community groups in the Township such as environmental committees, religious organizations, educational and civic institutions, and offer to speak with these groups about the importance of driving Recyclable Materials out of the disposal stream.

3.2 *Township Obligations.* The Township shall, promote community engagement with the Retrievr Program a minimum of three times per year in January, April (Earth Day) and September (or around America Recycles Day) through existing channels, including, without limitation, the Township website and other social media channels currently deployed by the Township.

3.3 *Rights to Use Marks.* Any and all co-branding or other public releases with respect to the Retrievr Program, including, without limitation, the Materials, and the commitments of the Parties and other matters described in this Agreement, shall require the mutual prior written consent of the Parties, including, without limitation, as to the wording thereof and the use of all logos; *provided, however*, that Retrievr shall be permitted to make public releases stating that Retrievr is the authorized collection agent of Recyclable Materials for the Township. To the extent the Parties consent to any such co-branding or release, the Parties hereby grant to each other limited, revocable, non-assignable, non-transferable, non-licensable, licenses in their respective marks. Notwithstanding that any co-branding or public release may have been approved by the other Party in accordance with this Section 3, at any time upon written notification from one Party to the other Party advising such Party that it withdraws consent to such co-branding or public release, such Party shall as soon as practicable stop using such co-branding or promoting such public release, including, without limitation, removing it from all websites and social media to the extent such removal is within such Party's control.

4. Profit Share and Cost Savings.

4.1 *Right to Charge Fees to Residents.* Retrievr shall be entitled to charge Residents fees for the collection of the items set forth on Exhibit A hereto, including televisions and cathode ray tubes, in the amounts set forth on Exhibit A hereto.

4.2 *Profit Share.* During the term of this Agreement, the Township shall be entitled to receive from Retrievr ten percent (10%), and Retrievr shall be entitled to retain ninety percent (90%), of Net Revenue actually received by Retrievr from the sale to Processors by Retrievr of Recyclable Materials collected from Residents by Retrievr.

4.3 *Definition.* "Net Revenue" means gross sales minus (a) any payments made by Retrievr to any independent contractors in connection with the storage of Recyclable Materials collected from Residents (b) all costs and expenses incurred by Retrievr in connection with palletizing the Recyclable Materials collected from Residents, and (c) the cost to Retrievr to transport Recyclable Materials collected from Residents to Processors. During the term, Township shall have the right, upon request, to review the financial records of Retrievr to confirm the accurate calculation of Net Revenue under this Section 4.3.

4.4 *Retention by Township of Cost Savings.* As between Retrievr and the Township, the Township shall be entitled to retain one hundred percent (100%) of (a) the landfill disposal avoidance created as a result of the diversion of Recyclable Materials under the Retrievr Program, (b) any cost savings from having to dedicate fewer resources to, and/or run fewer, Township e-waste drop off events, and (c) any increased grant funding to the Township as a result of increased diversion of Recyclable Materials from landfill disposal as a result of the Retrievr Program.

4.5 *Exclusivity.* During the term of this Agreement, the Township shall not contract with any other person or entity for the collection of any Recyclable Materials, provided however, the Township may contract with third party providers for electronic drop off events. Retrievr shall have the right to contract with any other person, entity, or municipality to provide collection services.

4.6 *Term; Obligations upon end of Term.* The term of this Agreement shall commence on the Effective Date and shall continue for twelve (12) months from the Effective Date. Thereafter, the term will renew monthly unless either party provides written notice to the other at least sixty (60) days' prior to the end of the term of its desire to terminate this Agreement. Upon the end of this Agreement's term, the Township and all Licensees shall delete, destroy or return to Retrievr all copies (whether digital, hard or otherwise) of any software or data obtained (including without limitation all PII) from or related to the Platform and shall confirm to Retrievr that such deletion, destruction or return has occurred. Notwithstanding the foregoing, Township shall have the right to terminate this Agreement prior to the end of the term upon written notification to Retrievr in the event that Retrievr fails to fulfill its obligations hereunder.

4.7 *Representations and Warranties.* Each Party hereby represents and warrants to the other Party that:

4.8 it is duly authorized and empowered to enter into, execute, deliver, and perform its obligations under this Agreement;

4.9 the execution, delivery, and performance by such Party of this Agreement has been duly authorized by all necessary action and do not and will not (i) require any consent or approval that has not been (or will not have been timely) obtained; (ii) contravene such Party's organizational, charter or governing documents; (iii) violate, or cause such Party (or the entity of which such Party is a division) to be in default under, any applicable law; or (iv) result in a breach of or constitute a default under any material agreement or instrument to which such Party (or the entity of which such Party is a division) is a party or by which it or its properties may be bound or affected; and

4.10 this Agreement is a legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its respective terms, except as the enforcement thereof may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights of creditors generally and except to the extent that enforcement of rights and remedies set forth therein may be limited by equitable principles (regardless of whether enforcement is considered in a court of law or a proceeding in equity).

5. No Warranty and Disclaimer. RETRIEVR PROVIDES THE PLATFORM ON AN "AS IS" AND "WITH ALL FAULTS" BASIS, WITHOUT ANY WARRANTY WHATSOEVER, AND HEREBY EXPRESSLY DISCLAIMS WITH RESPECT TO THE PLATFORM AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (A) ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT; AND (B) ALL LIABILITY FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, COVER, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST DATA OR LOST PROFITS, HOWEVER ARISING, WHETHER BASED IN CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, EVEN WHERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5.1 Indemnity. Retrievr shall indemnify and hold Township harmless from and against any and all liabilities, obligations, claims, demands, losses, damages, actions or causes of action, costs and

expenses (including, without limitation, reasonable attorneys' fees and litigation expenses) imposed upon or incurred by or asserted against the Township as a result of Retrievr's (including its employees, agents or independent contractors) acts or omissions pursuant to the terms of this Agreement. If the Township should incur any such liability, obligation, loss, damage, cost or expense in defense against any such claims, demands, actions or causes of action, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be payable by Retrievr promptly upon the Township's demand *provided, however*, that Retrievr shall not be required to defend, indemnify, and save harmless the Township to the extent any Losses arise from the grossly negligent or intentional act or omission of the Township.

6. General Provisions.

6.1 *Relationship.* Nothing in this Agreement shall create a joint venture, partnership, employment or agency relationship between the Parties or between either Party and the employees or contractors of the other Party. Neither Party is authorized by this Agreement to represent, bind, obligate, or contract on behalf of the other Party.

6.2 *Entire Agreement.* With respect to its subject matter, this Agreement (with its exhibit, which is incorporated herein by reference) represents the Parties' entire agreement and supersedes all prior agreements, understandings and representations, written or oral, between the Parties.

6.3 *Amendments; Waivers.* This Agreement may be executed and delivered in counterparts and by facsimile or electronic transmission (including without limitation via email in "portable document format"). This Agreement may not be amended except by a writing signed by each of the Parties hereto. The waiver by either Party of a breach of or a default under any provision of this Agreement shall not be effective unless in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either Party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any such right or remedy.

6.4 *Severability.* Any provision of this Agreement that is held to be invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective only to the extent of such invalidity or unenforceability and without rendering invalid or unenforceable the remainder of this Agreement or affecting the validity or enforceability of any of the provisions of this Agreement in any other jurisdiction, and the court or tribunal so holding shall be empowered to substitute, to the extent enforceable, provisions similar to said provision, or other provisions, so as to provide to the Parties the benefits intended by said provision to the fullest extent permitted by applicable law.

6.5 *Assignment.* No Party may assign or transfer any rights or obligations under this Agreement without the written consent of the other Party, except that Retrievr may assign or transfer this Agreement and its rights and obligations hereunder, without the Township's consent, to any third party who succeeds to substantially all its business or assets, whether by sale of assets, merger or otherwise. Any assignment or transfer, or attempted assignment or transfer, in violation of this Agreement is void *ab initio*, and may subcontract its rights and duties hereunder with consent of the Township, such consent not to be unreasonably withheld.

6.6 *Force Majeure.* Neither Party shall be liable for any delay or failure in performance of any part of this Agreement to the extent such delay or failure has been occasioned by any act of God, fire, strike, union activity, market failure, inevitable accident, terrorism, insurrection, government restriction or prohibition, war or any cause outside of a Party's reasonable control.

6.7 *Governing Law; Jurisdiction.* This Agreement is to be governed by, construed and enforced in accordance with, the internal laws of the Commonwealth of Pennsylvania without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of Pennsylvania to the rights and duties of the Parties.


6.8 *Counterparts.* This Agreement may be executed and delivered in counterparts and by facsimile or electronic transmission (including without limitation via email in “portable document format”).

[Remainder of Page Intentionally Blank; Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

RETRIEVR, INC

THE TOWNSHIP OF RADNOR

By: 
Name: Robert E Anderson
Title: Vice President

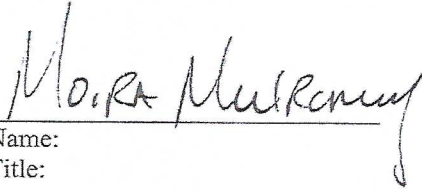
By: 
Name:
Title:

Exhibit A
Fees

Standard television and CRT monitor - \$35.00 per unit.

Rear projection television, extra-large CRT television and wood cabinet television - \$100.00 per unit

Microwaves - \$10.00 per unit.

Small CFC devices such as window air conditioners, dehumidifiers, and small "dorm room" refrigerators
- \$50.00.

Convenience Fee per collection without an above referenced fee - \$10.00

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RADNOR TOWNSHIP

By: Moira Mulrone
Moira Mulrone, President

ATTEST: William M. White
William M. White
Township Manager/Secretary