



**THE CORPORATION OF THE  
TOWN OF COBALT**

**BY-LAW NO. 2024-31**

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**Being a By-Law to Enter into an Agreement with Phippen Waste Management Ltd  
for Collection, Removal and Disposal of Refuse**

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**WHEREAS** under Section 9 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, a municipality has the rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** under Section 10 (1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

**AND WHEREAS** Council deems it necessary to enter into an agreement with Phippen Waste Management Ltd;


**NOW THEREFORE BE IT RESOLVED THAT** the Council of the Corporation of the Town of Cobalt hereby enacts as follows:

1. That the Mayor and Clerk be authorized to execute an agreement with Phippen Waste Management for the collection, removal and disposal of refuse for 6 years, a copy of which is attached hereto as Schedule "A" forming part of this By-Law;
2. That the term of this agreement shall commence on January 1, 2025 and terminate on December 31, 2030.
3. That all By-Laws and resolutions, or parts thereof, contrary hereto and inconsistent herewith be and the same are hereby repealed;
4. That this By-Law shall come into force and take effect on the date of the final passing thereof.

5. That the Clerk for the Town of Cobalt is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-Law and Schedule after the passage of this By-Law, where such modifications or corrections do not alter the intent of this By-Law.

**TAKEN AS READ** a first, second and third time and passed this 20<sup>th</sup> day of August, 2024.

**AND FURTHER THAT** the said By-Law be signed and sealed by the Mayor and Clerk.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk



**THE CORPORATION OF THE  
TOWN OF COBALT**

Schedule "A" to  
By-Law 2024-XX

AGREEMENT BETWEEN  
**THE CORPORATION OF THE TOWN OF COBALT**

AND

**PHIPPEN WASTE MANAGEMENT LIMITED**  
FOR THE COLLECTION, REMOVAL  
AND DISPOSAL OF REFUSE

This Agreement made in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 2024

**Between**

**The Corporation of the Town of Cobalt**  
(hereinafter called the "Corporation")  
Party of the First Part

**And**

**Phippen Waste Management Limited**  
(hereinafter called the "Contractor")  
Party of the Second Part

**Whereas** the Corporation desires to enter into an agreement with the Contractor for the collection, removal and disposal of refuse;

**And whereas** the Corporation and the Contractor have agreed to the following terms and covenants, set out herein do hereby agree one with the other as follows:

**1. Definitions:**

- 1.1 **Adequate Equipment** shall mean to include two (2) automated side loader trucks with a lift or arm capable of grabbing and lifting approved containers into the hopper then returning the containers to the curb, and capable of compacting and transporting waste material;
- 1.2 **Appointee** means the Superintendent of Public Works or the person acting as such, or any other person authorised by the Superintendent of Public Works;
- 1.3 **Approved Container** means the Town issued 65 gallon garbage container;
- 1.4 **Bi-Weekly Collection** means the collection of refuse;
- 1.5 **Collection Location** means the location at which the Contractor has agreed to collect the approved containers from the curbside adjacent to a public roadway, or at a mutually agreed upon location on the resident's property, onto the collection vehicle;
- 1.6 **Collection Services** means all services performed by the Contractor in connection with single-family, multi-residential and ICI collection of refuse;
- 1.7 **Containerized Collection** means the system of collection, placed in approved containers by means of a front-end collection vehicle;
- 1.8 **Contract** means this agreement to do the work entered into with the Corporation, and includes Bond and Security, the Specifications, the General Conditions, the Tender and other documents referred to or connected with the said agreement;

- 1.9 **Consumer Price Index or "CPI"** means the Consumer Price Index for Ontario. All items excluding energy, as published by Statistics Canada or a comparable successor to such price index should be the Consumer Price Index for Ontario. All items excluding energy, be discontinued in its present form;
- 1.10 **Contractor** or a pronoun in place thereafter, means the person or persons who have undertaken to carry out this contract;
- 1.11 **Corporation** means the Corporation of the Town of Cobalt;
- 1.12 **Disposal Site** means the currently operated Temiskaming Shores Landfill site in New Liskeard or other location as determined by the Corporation;
- 1.13 **ICI** is the abbreviation for Industrial, Commercial and Institutional;
- 1.14 **Multi-Residential Building** means a building containing more than two (2) self-contained residential living units;
- 1.15 **Refuse** means any material considered garbage;
- 1.16 **Town** means the Town of Cobalt;
- 1.17 **Transport, Transporting or Transportation** means the handling, hauling and unloading of waste, using the trailers, trucks and other equipment for the transport of the refuse under this agreement;
- 1.18 **Unacceptable Waste** means any material not legally allowed to be collected.

## 2. Term

- 2.1 The parties agree that the obligation of the parties under this agreement shall commence on the **1<sup>st</sup> day of January, 2025** and shall conclude on the **31<sup>st</sup> day of December, 2030.**
- 2.2 It is the intention of both the Corporation and the Contractor to renew the agreement for an additional six (6) years, or for a term mutually agreed upon by the parties. Thus, the Corporation and the Contractor shall commence negotiations for an extended agreement at least two (2) years prior to the termination of this agreement. The term may be shortened or terminated, only pursuant to Sections 3 and 4 of this agreement. In the event that a new agreement is not commenced prior to the termination of this agreement, this contract will continue monthly at the applicable rates until a new contract is executed. The Town will not be liable for any additional costs or damages of any kind caused to the Contractor if this agreement is terminated.

## 3. Right to Terminate Agreement

- 3.1 The parties further agree that this agreement may be terminated for just cause or for such reasons and in such manner as in hereinafter set forth. For example, just cause could include:

- i) **Non-Performance:** If the Contractor consistently fails to pick up refuse on scheduled days without a valid reason or notice.
- ii) **Breach of Contract:** Failure to adhere to the terms and conditions specified in the contract, such as providing inadequate service or using substandard equipment.
- iii) **Financial Incapacity:** If the collection company goes bankrupt or becomes financially insolvent, rendering them unable to continue service.
- iv) **Safety Concerns:** If the collection services do not adhere to safety regulations or standards, putting residents, workers, or property at risk.
- v) **Legal Violations:** Engaging in illegal activities or violating local, provincial and federal laws related to waste disposal or environmental regulations.
- vi) **Material Changes:** Significant changes in the terms of service, pricing, or service levels without agreement or notification to the client.
- vii) **Misrepresentation:** Providing false information or misrepresenting capabilities, qualifications, or services offered in the contract.
- viii) **Loss of Licence or Permits:** If the Contractor loses necessary licences or permits required to operate legally in the area.

#### 4. Termination of this Agreement

- 4.1 The parties agree that this agreement may be terminated upon written notice from one party to the other. The termination date shall be one (1) year subsequent to the date of written notice. The extension noted in Section 2.2 shall not affect the option to terminate under Section 4.1.
- 4.2 Notwithstanding Section 4.1, this agreement may be terminated in thirty (30) days upon notice for just cause or such reasons and in such manner as may be hereinafter set forth.

#### 5. Remuneration

- 5.1 The Contractor shall accept the compensation as herein provided in full payment for furnishing all necessary materials, labour, tools, equipment, supplies and other incidentals and for performing all work under this agreement.
- 5.2 The Corporation shall pay to the Contractor nine thousand eighteen dollars and ninety-one cents (\$9,018.91) plus HST per month from January to March 2025 which includes:
  - i) Curbside bi-weekly refuse pickup;
  - ii) Transportation of refuse to the landfill site;
  - iii) Curbside bi-weekly recyclable collection;

- iv) Transportation and process fees of recyclable materials to the appropriate recycling centre is not included. The contractor agrees to work with the municipality to achieve the best value given the closure of the Temiskaming Shores transfer station. The expectation of both parties is that this fee will be similar to what the communities are paying to Temiskaming Shores currently as it includes processing and transportation of recyclable materials to North Bay.
- 5.3 Beginning on April 1<sup>st</sup>, 2025, the Corporation shall pay the Contractor four thousand five hundred and nine dollars and forty-six cents (\$4,509.46) plus HST per month which includes:
- i) Curbside bi-weekly refuse pickup collection for all stops that exist prior to December 31, 2024;
  - ii) Transportation of refuse to the landfill site;
  - iii) Any additional stops put into service after December 31, 2024 would require additional discussions.
- 5.4 In addition, the Contractor may charge the Corporation a fuel surcharge fee of 0.2% for every \$0.01 over \$2.00/litre based on their average billing price in a given month. The Contractor will provide proof of this price each time a fuel surcharge is added.
- 5.5 For greater clarity, the Corporation's fee includes the bi-weekly collection of dumpsters located within the municipality.
- 5.6 The Contractor will receive monthly payments less all stipulated forfeitures and deductions. All payments to the Contractor shall be made out of funds under the control of the Corporation, in its public capacity as a Town, and no member of the Town of Cobalt's Council, or officer of the Town is to be held personally liable to the Contractor under any circumstances whatsoever.
- 5.7 Before making any payments for work to be performed hereunder, the Corporation may require the Contractor to satisfy the Corporation that all claims against the Contractor for labour, materials, or things hired or supplied upon or for the works, have been paid or satisfied, or if any such claims are found to exist, may pay such sum and the Contractor shall repay the same within two (2) days, or the Corporation may, at its option, withhold from the payment due sufficient amounts to satisfy the same.
- 5.8 For each subsequent year of this Agreement, effective January 1<sup>st</sup>, the Corporation shall be billed to account for increases in the cost of living for all items excluding energy. The increase will be equal to the percentage increase for the Consumer Price Index (CPI) for Ontario, as published for the previous 12 calendar months in September of each year.

## 6. Change in Law Provisions

- 6.1 The Contractor acknowledges and agrees that at all times its obligations and duties under this contract shall be performed in accordance with all applicable laws and regulations.
- 6.2 For the purpose of clarity, the Contractor shall be solely responsible for complying with all federal and provincial laws, regulations, policies and procedures governing the performance of the work ("Applicable Laws") as may be amended and replaced from time to time.
- 6.3 In addition to acting in compliance with all applicable laws, the Contractor shall behave in an ethical manner having regard with condition, well-being, and fair treatment of all persons, places and things.
- 6.4 A "Change of Law" includes but is not limited to any legal change, amendment, alteration to applicable law including a policy, plan, directive, statute, statutory treatment, regulations or By-Law through:
- i) A draft bill as part of any government department consultation paper;
  - ii) A government bill or white paper;
  - iii) A draft statutory instrument;
  - iv) Any applicable judgement or a relevant court of law or administrative body that may affect the work; or
  - v) Any guidance, recommendations or directions provided from any ministerial authority applicable to the duties contained in the contract.
- 6.5 If a change of law occurs or is about to occur, that results in a significant effect on the ability of the Contractor to perform the work as determined by the Corporation acting reasonably and/or the ability of the Corporation to authorize the performance of the work, and/or significantly alters the scope of the work to be performed, then the Corporation, in its sole discretion, may notify the Contractor in writing of the change of law and either party may notify the other to express an opinion on its likely effects, providing details of their opinion regarding:
- i) Any necessary change in the work;
  - ii) Whether any changes or amendments are required to the contract to deal with the change of law;
  - iii) Whether any relief is required from the terms, conditions and obligations set out under the contract is required prior to or after the implementation of any relevant change in law;



- iv) Any loss of income that may result from the change in law;
  - v) Any estimated change in the costs of performing the work as a direct result of the change in law;
  - vi) Any costs and/or expenses required or no longer required as a result of the change in law.
- 6.6 In each case, full details of any proposed procedures and/or cost for implementing the resulting change in the work shall be provided by the Corporation to the Contractor in writing in its sole discretion confirming any changes to the Contractor's responsibilities as a result of the change in law. Any resulting variation to the contract price shall be dealt with by negotiation.

## **7. Collection Schedule – Residential Areas**

- 7.1 The Contractor undertakes and agrees to carry out the collection and disposal of garbage and other refuse within the Town as set out in Appendix 1 – Collection Schedule Map.
- 7.2 That residential garbage collection shall be limited to using the 65 gallon bins provided by the Town (equivalent to four (4) regular size garbage bags).
- 7.3 That garbage shall be collected on a bi-weekly collection schedule (every 2 weeks) on alternating weeks.

## **8. Collection Map – Areas Defined**

- 8.1 The Collection Schedule Map (Appendix 1) depicts the general areas of the collection program including the day of collection. The Town of Cobalt refuse will be picked up on a single day – Thursday morning.

## **9. Collection Schedule – Industrial, Commercial, Institutional**

- 9.1 The Contractor undertakes and agrees to carry out the collection and disposal of refuse from the ICI sectors as set out in Appendix 1 – Collection Schedule Map.
- 9.2 That ICI collection may have more than one (1) 65 gallon bin, per ICI unit.
- 9.3 That garbage collection for ICI shall be by-weekly on alternating weeks, unless otherwise stated.

## **10. Industrial, Commercial, & Institutional Collection – Areas Defined**

- 10.1 The Contractor shall be responsible for the collection of refuse from the ICI sectors within all areas. ICI collection will be on Wednesday morning, on alternating weeks from residential pickup.

## **11. Compliance with Collection Schedule.**

- 11.1 The Contractor shall make collections on every scheduled day regardless of weather conditions, equipment breakdowns or quantity of materials, and shall plan operations so that normal contingencies are overcome. If conditions are so abnormal that regular collection is not possible, the Contractor shall inform the Corporation and request approval to suspend collections operations until the next working day. If in the opinion of the Corporation, there is not sufficient justification in the request and the Contractor is unable to carry out the scheduled work, the Corporation may have work done by others and the cost of such work shall be borne by the Contractor. The onus is on the Contractor to have back-up equipment when breakdowns occur that will adversely affect the regular collection, removal and disposal of refuse.

## **12. Equipment / Staffing**

- 12.1 The Contractor shall use units that have fully enclosed steel bodies mounted on adequate truck chassis capable of loading, compacting and unloading waste automatically with an automated side lift-arm.
- 12.2 The Contractor shall be required to maintain and operate the necessary number of waste collection units, with operator(s), sufficient to collect, haul and dispose at the appropriate disposal site all collectable refuse in accordance with the By-Law(s) governing the collection.
- 12.3 The Contractor shall be responsible for maintenance, repairs, and all other operating costs of the equipment supplied including fuel, licensing, insurance, washing, storage, etc. the adequacy of the equipment hereunder shall be subject to the approval of the Corporation or its appointee.
- 12.4 The Contractor shall be responsible for the hiring, and the compensation / benefits paid to all employees with the appropriate qualifications and supply training, as mandated or required.

## **13. Health and Safety**

- 13.1 The Contractor shall provide all employees with neat and distinctive work overalls and applicable safety equipment while engaging in garbage and recycling collection services. The Contractor shall ensure that all employees maintain such apparel in a state of good repair.

- 13.2 The Contractor shall supply and maintain first aid items and equipment as called for under the First Aid regulations of the Workplace Safety and Insurance Act (WSIB) as may be amended.
- 13.3 The Occupational Health and Safety Act and/or other legislation pertaining to safety shall govern the Contractor and his employees.

#### **14. Special Programs**

- 14.1 The Corporation from time to time may introduce special programs such as the *Spring Clean-Up* program. The Contractor shall have no obligations with respect to special programs unless through mutual agreement with the Corporation.

#### **15. Public Courtesy**

- 15.1 The Contractor shall ensure that all employees engaged in collection services are courteous with the general public and shall direct all inquires to the Contractor's office.

#### **16. Contractor's Office**

- 16.1 The Contractor shall maintain an office with easy access at all times during the contract, and such office shall be so staffed that during normal working hours, complaints respecting the garbage collection services may be received and processed by the said Contractor.

#### **17. Ratepayer Concern Report**

- 17.1 The Contractor shall maintain a written record of all ratepayer concerns received. The report, at a minimum, shall record the civic address, a phone number, a contact name and the nature of the concern and all action(s) taken to resolve the concern.
- 17.2 The Contractor shall supply the Corporation with a copy of all ratepayer concern reports on a monthly basis.

#### **18. Standard of Performance**

- 18.1 All work to be performed under this agreement shall be to the satisfaction of the Corporation or its appointee and be carried out in accordance with the applicable By-Law(s).

#### **19. Collection Schedule**

- 19.1 The Contractor shall not commence any collections in any residential area before 6:30 a.m. except as otherwise authorized by the Corporation.

#### **20. Changes in Collection Schedule**

- 20.1 All changes in the collection schedule shall be subject to the approval of the Corporation or its appointee.
- 20.2 The Contractor, at his own expense, shall advertise all such changes in such a manner as the Corporation may require. This may include newspaper notices and/or radio advertisements and/or flyers.

## **21. Collection**

- 21.1 The Contractor will be required to collect refuse from the curbside adjacent to the householders' premises as has been established practice within the Town of Cobalt. The Corporation or its appointee reserves the right to modify the collection location according to operational changes. All approved containers shall be returned the same collection location from which the Contractor took them, except for when the Contractor is placing the approved container in a preferable location for future collections.
- 21.2 The Contractor shall provide service to new and eligible housing units or ICI units upon authorization of the Corporation. Such notification will be provided to the Contractor when a building(s) is occupied and is satisfactory to facilitate service by collection vehicles. The Contractor shall be paid for collection services provided to new and eligible buildings, and shall be provided with the update quantity of approved containers at the end of each month throughout the term of the contract.
- 21.3 The Contractor shall be responsible for making arrangements with the owners of all eligible multi-residential buildings receiving containerized collection for the set up of collection locations and collection dates.
- 21.4 The Contractor shall attach "notices tags" provided by the Corporation, on approved containers when found in compliant. The Contractor shall provide the Corporation with the address and the corresponding notice types on a per-occurrence basis.
- 21.5 The Contractor shall be responsible for the repair or replacement of the approved containers that may be damaged by the Contractor from the collection location. If, in the opinion of the Contractor, certain containers are potentially dangerous to the health and welfare of employees, the Contractor shall so notify the Corporation or its appointee.
- 21.6 The Contractor shall not be responsible for missed collection(s) of approved containers if they were placed at the collection location outside after 6:30 a.m. on Thursday, or for waste that packed or frozen in the container(s).

## **22. Holiday Collections**

- 22.1 No collection shall be made on statutory holidays, unless mutually agreed upon by the Corporation and the Contractor. When a statutory holiday is observed by the Contractor, collection shall be made on the nearest regular working day to that holiday either preceding it or following it.
- 22.2 The Contractor, at its own expense, shall advertise all such holiday collection changes in such a manner as the Corporation requires.

### **23. Traffic**

- 23.1 The Contractor shall perform duties in accordance with the Highway Traffic Act, as amended as well as be in adherence to the Ontario Traffic Manual – Book 7 – Temporary Conditions.

### **24. Disposal Site**

- 24.1 All refuse collected must be deposited at the disposal site. The Contractor shall deposit refuse at other temporary areas designated from time to time as the Corporation may direct.
- 24.2 The Contractor shall observe the operating hours of the disposal sites as established by the City of Temiskaming Shores from time to time. The Contractor, at its own expense, may make arrangements with the disposal site operator to deliver refuse outside established operating hours.

### **25. Supplementary Services by Contractor to the Public**

- 25.1 It is understood that the Contractor, as part of its corporate profile, may be providing other services to the general public. Any such supplementary or additional service provided by the Contractor outside of the scope of this agreement shall be the responsibility of the Contractor and the individual customer.
- 25.2 The Corporation in no way guarantees the payment of any accounts for supplementary services. The Contractor shall not undertake any supplementary services hereunder which may, in the discretion of the Corporation, interfere with the Contractor's duties in this agreement.

### **26. Insurance**

- 26.1 Prior to the commencement of operations, the Contractor shall produce evidence satisfactory to the Corporation of the Town of Cobalt that the Contractor has obtained insurance in the amount of five million dollars (\$5,000,000.00) from an insurance company authorized to carry on business in Canada, to cover any liability or property damage arising out of this contract. This coverage shall be maintained in force throughout the term of this agreement.
- 26.2 The Contractor shall deposit with the Corporation, before commencing any work under this contract, a certified copy of the insurance policy together with the Certificate of Insurance detailing the coverage's beginning date and expiry date for the policy, duly executed by the insuring company stating that if the said policies are cancelled or changed in any manner ten (10) days' written notice of such change or cancellation will be given to the Municipal Clerk of the Corporation of the Town of Cobalt.

- 26.3 The Certificate of Insurance shall name the Town of Cobalt as an additional insured with respect to its interest in the operations of the Contractor with the following language:

*"The Town of Cobalt and its affiliated entities, officers, partners, directors, employees, representatives and agents are included as Additional Insured's for Comprehensive General Liability. Such coverage is primary and non-contributing."*

## **27. Indemnification of Corporation**

- 27.1 The Contractor shall exonerate, indemnify and hold harmless the Corporation, its directors, officers, employees and agents from and against any and all claims which may be suffered or incurred by, accrue against, or be charged to or recoverable from the Corporation to the extent that such claim is caused by the Contractor's negligence or wilful misconduct when performing the services.
- 27.2 The Contractor shall be responsible for any and all damages or claims for damages or injuries or accidents done to or caused by reason of the existence or location or condition of any materials, plant or chicanery used thereon or therein or which may happen by reason thereof, or arising from any failure, neglect or omission on his part, or on the part of any of his employees, to do or perform any or all of the several acts or things required to be done by him or them under and by these conditions and covenants and agrees to hold the Corporation harmless and indemnified for all such damages or claims for damages.

## **28. Workplace Safety and Insurance Act**

- 28.1 The Contractor shall at all times pay, or cause to be paid, any assessment or compensation required to be paid pursuant to the *Workplace Safety and Insurance Act*, and upon failure to do so, the Corporation may pass such assessment or compensation to the *Workplace Safety and Insurance Board* and shall deduct or collect such expenses under the provisions of Section 5.0 Remuneration of this agreement. The Contractor shall, at the time of entering into any contract with the Corporation, **make a Statutory Declaration** that all assessments or compensation board have been paid, and the Corporation may, at any time during the performance or upon completion of such contract, require a further declaration that such assessments or compensation have been paid.

## **29. Compliance with Accessibility for Ontarians with Disabilities Act, 2005**

- 29.1 The Contractor shall ensure that all of its employees, agents, volunteers, or others who provide municipal services to the public for whom the Contractor is legally responsible receive training regarding the provisions of the goods and services contemplated herein to persons with disabilities in accordance with Section 6 of Ontario Regulation 429/07 (the "Regulation") made under the Accessibility for

Ontarians with Disabilities Act, 2005, as amended (the "Act"). To complete the Accessible Customer Service Training – SERVE – ABILITY: Transforming Ontario's Customer Service course, refer to the following: <https://www.aoda.ca/free-online-training/>.

The Contractor, in consultation with the Site Authority, shall submit to the Town of Cobalt, as required from time to time, documentation with a record of the dates on which training was completed.

The Corporation reserves the right to require the Contractor to demonstrate that its training policies meet the requirements of the Act and the Regulation.

### **30. Assignment and Sub-Contractors**

- 30.1 The Contractor shall not **assign or sub-let the contract** or any part thereof or any benefit or interest therein or thereunder, without the written consent of the Corporation.
- 30.2 The Contractor shall be held as fully responsible to the Corporation for the acts and omissions of its subcontractors and of persons directly or indirectly employed by it and for the acts and omissions of persons directly employed by it.

### **31. Monies Due to the Corporation**

- 31.1 All monies payable to the Corporation by the Contractor under any stipulation herein, or to the *Workplace Safety and Insurance Board*, as provided hereunder, may be retained out of monies then due or which may become due from the said Corporation to the said Contractor under this or any other contract with the Corporation, or otherwise howsoever, or may be recovered from the Contractor or his surety, in any Court of competent jurisdiction, as a debt due to the Corporation, and the Corporation shall have full power to withhold any progress payment if circumstances advise which may indicate to it the advisability of so doing and to such sum to be so retained, may be ascertained.

### **32. Liens**

- 32.1 The parties hereto and their surety or themselves, their executors, administrators, successors and assigns and any and all other parties, in any way concerned, shall full indemnify the Corporation and all its officers, servants, and employees from any and all liability or expenses by way of legal costs or otherwise in respect of any claim which may be made for a lien or charge at law or in equity or any claim or liability under the *Mechanic's Lien Act* or to any attachment or debt, garnishee process or otherwise. The Corporation shall not in any case be liable to any greater extent than the amount owing by it to the contractor, his executors, administrators, successors and assigns.



### 33. Forfeiture of Contract

33.1 If the Contractor compounds with his creditors to commit any act of insolvency, or shall transfer, assign or sublet, or attempt to transfer, assign or sublet this contract, or any part thereof without the consent of the Corporation, or if at any time the work or any part thereof is, in the judgment of the Corporation, not executed or not being executed in a sound or workmanlike manner to its satisfaction, and in all respects in strict conformity with the contract, or if such work or any part thereof is not progressing continuously, and in such a manner to ensure entire satisfaction, in the judgement of the Corporation or to comply with any reasonable work order he may receive from the Corporation, or if the Contractor shall persist in any course in violation of any of the provisions of this contract, then in each and every such case, after twenty-four (24) hours' written notice from the Corporation to the Contractor, the Corporation shall have the full right and power, at its discretion, without process or action at law, to take over the whole operation, or any part or parts thereof specified in the operation, or any part or parts thereof specified in the said notice, and out of the hands of the Contractor and the Contractor upon receiving notice to that effect shall vacate the possession and give up said operations or part or parts thereof specified in the said notice, peacefully to the said Corporation, which may either relent the same to any other person or persons, with or without its previously being advertised or may employ workmen and provide the necessary plant at the expense of the Contractor, or may take such other steps as it may consider necessary or advisable in order to secure the completion of the said contract to its satisfaction; and the Contractor and his surety in every case shall be liable for all damages, expenditures, and extra expenditure, and for all additional cost of the work which may be incurred by reason thereof. All the powers of the said Corporation with respect to the determination of the sum or sums or balance of money to be paid to or received from the said Contractor, and otherwise in respect of the contract, shall nevertheless continue in force.

### 34. Other Rights

34.1 The Contractor, its agents and all workmen and person employed under its control shall use due care that **no person is injured** and that no property is damaged in the prosecution of the work and the Contractor shall be solely responsible for all damages to persons or property including theft, whether the property is owned by the Corporation or any of its employees.

### 35. Bribery or Corrupt Practice

35.1 Should the Contractor or any of his agents give, or offer any gratuity to, or attempt to bribe any member of the Corporation, Council, officer or servant of the Corporation, the Corporation shall be at liberty to cancel the contract forthwith.

**36. Notice to Contractor**

36.1 Any notice or communication to the Contractor shall be deemed to be well and sufficiently given and served if handed to the Contractor or any of his clerks or agents or if posted or sent by ordinary mail to his usual place of business, or to the place where the work is to be left, sent or addressed, shall be considered to be, and to have been, legally served upon the Contractor. If any written or printed notice to the Contractor in respect of general, special or other repairs, or of any work of any nature required to be done under any of the provisions of the contract, or any other matter, it shall be obligatory upon the Corporation to specify minutely or in detail everything required nor to specify by measurement the exact extent thereof, of the precise spot or spots where the work or material may be defective or faulty, or where any of the requirements of the specifications have not been observed; but a reference in such notice to the clause or clauses bearing upon the matter, and a description of the locality in general terms, and sufficiently clear, in the opinion of the Corporation, to indicate where the defect or trouble exists, shall be deemed to be, and shall be, ample notice.

**37. Force Majeure**

37.1 The Town shall not be liable for any failure to perform its obligations hereunder if the nonperformance is due to lightning, tempest, explosion, earthquake, acts of God, mob violence, acts of the King's enemies, strike, lockout, or other labour disruption, or any catastrophic cause beyond its control.

**In witness whereof** the parties hereto have hereunto set their hands and seals.

Signed and sealed in	)	<b>Phippen Waste Management Limited</b>
the presence of	)	
	)	_____
	)	Signing Authority
Contractor's Seal	)	Name: _____
	)	Title: _____
	)	
	)	_____
	)	Signing Authority
	)	Name: _____
	)	Title: _____
	)	
	)	<b>Corporation of the Town of Cobalt</b>
	)	
	)	_____
Contractor's Seal	)	Mayor – Angela Adshead
	)	
	)	_____
	)	Clerk – Steven Dalley