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 CEC ELECTRONIC WASTE RECYCLING, INC.
 7

8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION**
 10

11 REAM HOLDINGS, LLC, an Arizona limited liability company, 12 Plaintiff, 13 v. 14 3R INTERNATIONAL GROUP, INC. a 15 California corporation dba E-Waste Recovery Center; ALL E WASTE, INC., a 16 California corporation; ATTAN RECYCLING CORP., a California 17 corporation; CEC ELECTRONIC WASTE RECYCLING, INC., a California 18 corporation; DEBRI-TECH, INC., a California corporation; EWASTE 19 CENTER, INC., a California corporation; GLOBAL SURPLUS SOLUTIONS, INC., 20 a California corporation; GREENVIEW RESOURCE MANAGEMENT INC., a 21 California corporation; KYO COMPUTER INC., a California corporation; WEST 22 COAST RECYCLING, LLC dba MISSION RECYCLING, a California 23 limited liability company, 24 Defendants.) CASE NO. 5:17-cv-00825-SVW-) FFM)) ANSWER OF DEFENDANT CEC) ELECTRONIC WASTE) RECYCLING, INC. TO) PLAINTIFF’S COMPLAINT))) Dept: 10A) Judge: Hon. Stephen V. Wilson
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1 Defendant CEC ELECTRONIC WASTE RECYCLING, INC.
2 (“Defendant”) hereby answers the Complaint of Plaintiff REAM HOLDINGS
3 (“Plaintiff”), as follows:

4 **THE PARTIES**

5 1. Defendant lacks sufficient information or knowledge to answer the
6 allegations in paragraph 1, and based upon such a lack of information or
7 knowledge, denies, generally and specifically, each and every allegation thereof.

8 2. Defendant lacks sufficient information or knowledge to answer the
9 allegations in paragraph 2, and based upon such a lack of information or
10 knowledge, denies, generally and specifically, each and every allegation thereof.

11 3. Defendant lacks sufficient information or knowledge to answer the
12 allegations in paragraph 3, and based upon such a lack of information or
13 knowledge, denies, generally and specifically, each and every allegation thereof.

14 4. Defendant lacks sufficient information or knowledge to answer the
15 allegations in paragraph 4, and based upon such a lack of information or
16 knowledge, denies, generally and specifically, each and every allegation thereof.

17 5. Defendant lacks sufficient information or knowledge to answer the
18 allegations in paragraph 5, and based upon such a lack of information or
19 knowledge, denies, generally and specifically, each and every allegation thereof.

20 6. Defendant lacks sufficient information or knowledge to answer the
21 allegations in paragraph 6, and based upon such a lack of information or
22 knowledge, denies, generally and specifically, each and every allegation thereof.

23 7. Defendant lacks sufficient information or knowledge to answer the
24 allegations in paragraph 7, and based upon such a lack of information or
25 knowledge, denies, generally and specifically, each and every allegation thereof.

26 8. Defendant lacks sufficient information or knowledge to answer the
27 allegations in paragraph 8, and based upon such a lack of information or
28 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 9. Defendant lacks sufficient information or knowledge to answer the
2 allegations in paragraph 9, and based upon such a lack of information or
3 knowledge, denies, generally and specifically, each and every allegation thereof.

4 10. Defendant lacks sufficient information or knowledge to answer the
5 allegations in paragraph 10, and based upon such a lack of information or
6 knowledge, denies, generally and specifically, each and every allegation thereof.

7 11. Defendant lacks sufficient information or knowledge to answer the
8 allegations in paragraph 11, and based upon such a lack of information or
9 knowledge, denies, generally and specifically, each and every allegation thereof.

10 12. Defendant lacks sufficient information or knowledge to answer the
11 allegations in paragraph 12, and based upon such a lack of information or
12 knowledge, denies, generally and specifically, each and every allegation thereof.

13 13. Defendant lacks sufficient information or knowledge to answer the
14 allegations in paragraph 13, and based upon such a lack of information or
15 knowledge, denies, generally and specifically, each and every allegation thereof.

16 14. Defendant admits the allegations of paragraph 14.

17 15. Defendant admits that it is and at all relevant times was engaged in the
18 business of electronic waste recycling and is a California approved electronic
19 waste recycler including as to the recycling of CRTs and CRT glass. Defendant
20 denies the remaining allegations of paragraph 15.

21 16. Defendant admits the allegations of paragraph 16.

22 17. Paragraph 17 is a legal conclusion and is not a material allegation
23 capable of being admitted or denied, such that no response is required.

24 18. Defendant lacks sufficient information or knowledge to answer the
25 allegations in paragraph 18, and based upon such a lack of information or
26 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 19. Defendant lacks sufficient information or knowledge to answer the
2 allegations in paragraph 19, and based upon such a lack of information or
3 knowledge, denies, generally and specifically, each and every allegation thereof.

4 20. Defendant lacks sufficient information or knowledge to answer the
5 allegations in paragraph 20, and based upon such a lack of information or
6 knowledge, denies, generally and specifically, each and every allegation thereof.

7 21. Defendant lacks sufficient information or knowledge to answer the
8 allegations in paragraph 21, and based upon such a lack of information or
9 knowledge, denies, generally and specifically, each and every allegation thereof.

10 22. Defendant lacks sufficient information or knowledge to answer the
11 allegations in paragraph 22, and based upon such a lack of information or
12 knowledge, denies, generally and specifically, each and every allegation thereof.

13 23. Defendant lacks sufficient information or knowledge to answer the
14 allegations in paragraph 23, and based upon such a lack of information or
15 knowledge, denies, generally and specifically, each and every allegation thereof.

16 24. Defendant lacks sufficient information or knowledge to answer the
17 allegations in paragraph 24, and based upon such a lack of information or
18 knowledge, denies, generally and specifically, each and every allegation thereof.

19 25. Defendant lacks sufficient information or knowledge to answer the
20 allegations in paragraph 25, and based upon such a lack of information or
21 knowledge, denies, generally and specifically, each and every allegation thereof.

22 26. Defendant lacks sufficient information or knowledge to answer the
23 allegations in paragraph 26, and based upon such a lack of information or
24 knowledge, denies, generally and specifically, each and every allegation thereof.

25 27. Defendant lacks sufficient information or knowledge to answer the
26 allegations in paragraph 27, and based upon such a lack of information or
27 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 28. Defendant lacks sufficient information or knowledge to answer the
2 allegations in paragraph 28, and based upon such a lack of information or
3 knowledge, denies, generally and specifically, each and every allegation thereof.

4 29. Defendant lacks sufficient information or knowledge to answer the
5 allegations in paragraph 29, and based upon such a lack of information or
6 knowledge, denies, generally and specifically, each and every allegation thereof.

7 30. Defendant lacks sufficient information or knowledge to answer the
8 allegations in paragraph 30, and based upon such a lack of information or
9 knowledge, denies, generally and specifically, each and every allegation thereof.

10 31. Defendant lacks sufficient information or knowledge to answer the
11 allegations in paragraph 31, and based upon such a lack of information or
12 knowledge, denies, generally and specifically, each and every allegation thereof.

13 32. Defendant lacks sufficient information or knowledge to answer the
14 allegations in paragraph 32, and based upon such a lack of information or
15 knowledge, denies, generally and specifically, each and every allegation thereof.

16 33. Defendant lacks sufficient information or knowledge to answer the
17 allegations in paragraph 33, and based upon such a lack of information or
18 knowledge, denies, generally and specifically, each and every allegation thereof.

19 34. Defendant lacks sufficient information or knowledge to answer the
20 allegations in paragraph 34, and based upon such a lack of information or
21 knowledge, denies, generally and specifically, each and every allegation thereof.

22 35. Defendant lacks sufficient information or knowledge to answer the
23 allegations in paragraph 35, and based upon such a lack of information or
24 knowledge, denies, generally and specifically, each and every allegation thereof.

25 36. Defendant lacks sufficient information or knowledge to answer the
26 allegations in paragraph 36, and based upon such a lack of information or
27 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 37. Defendant lacks sufficient information or knowledge to answer the
2 allegations in paragraph 37, and based upon such a lack of information or
3 knowledge, denies, generally and specifically, each and every allegation thereof.

4 38. Defendant lacks sufficient information or knowledge to answer the
5 allegations in paragraph 38, and based upon such a lack of information or
6 knowledge, denies, generally and specifically, each and every allegation thereof.

7 39. Defendant lacks sufficient information or knowledge to answer the
8 allegations in paragraph 39, and based upon such a lack of information or
9 knowledge, denies, generally and specifically, each and every allegation thereof.

10 40. Defendant lacks sufficient information or knowledge to answer the
11 allegations in paragraph 40, and based upon such a lack of information or
12 knowledge, denies, generally and specifically, each and every allegation thereof.

13 41. Defendant lacks sufficient information or knowledge to answer the
14 allegations in paragraph 41, and based upon such a lack of information or
15 knowledge, denies, generally and specifically, each and every allegation thereof.

16 42. Paragraph 42 is a definitional term and not a material allegation
17 capable of being admitted or denied, such that no response is required.

18 **OVERVIEW OF CALIFORNIA’S COVERED ELECTRONIC WASTE**
19 **RECOVERY AND RECYCLING PROGRAM**

20 43. Paragraph 43 is a legal conclusion and is not a material allegation
21 capable of being admitted or denied, such that no response is required.

22 44. Paragraph 44 is a legal conclusion and is not a material allegation
23 capable of being admitted or denied, such that no response is required.

24 45. Paragraph 45 is a legal conclusion and is not a material allegation
25 capable of being admitted or denied, such that no response is required.

26 46. Paragraph 46 is a legal conclusion and is not a material allegation
27 capable of being admitted or denied, such that no response is required.
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1 47. Paragraph 47 is a legal conclusion and is not a material allegation
2 capable of being admitted or denied, such that no response is required.

3 48. Paragraph 48 is a legal conclusion and is not a material allegation
4 capable of being admitted or denied, such that no response is required.

5 49. Paragraph 49 is a legal conclusion and is not a material allegation
6 capable of being admitted or denied, such that no response is required.

7 **STATEMENT OF THE CASE**

8 50. Defendant admits that it is and at all relevant times was engaged in the
9 business of electronic waste recycling and is a California approved electronic
10 waste recycler including as to the recycling of CRTs and CRT glass, which it
11 shipped to intermediate/downstream recycling facilities for further processing
12 before being shipped to other destinations for additional processing and/or
13 disposition. Defendant denies the remaining allegation of paragraph 50 as to
14 Defendant. As to the other defendants, Defendant lacks sufficient information or
15 knowledge to answer the remaining allegations of paragraph 50, and based upon
16 such a lack of information or knowledge, denies, generally and specifically, each
17 and every allegation thereof.

18 51. Defendant admits the allegations of paragraph 51 as to Defendant. As
19 to the other defendants, Defendant lacks sufficient information or knowledge to
20 answer the remaining allegations of paragraph 51, and based upon such a lack of
21 information or knowledge, denies, generally and specifically, each and every
22 allegation thereof.

23 52. Defendant admits that it had a contractual arrangement with DOW
24 Management LLC (“DOW”) to further process CRTs and CRT glass which it
25 would provide to DOW, as DOW’s facility at the Property was designated as an
26 approved recycling facility as of the time(s) that Defendant brought shipments to
27 DOW for further processing in 2012. As to the other defendants, Defendant lacks
28 sufficient information or knowledge to answer the remaining allegations of

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1 paragraph 52, and based upon such a lack of information or knowledge, denies,
2 generally and specifically, each and every allegation thereof.

3 53. Defendant lacks sufficient information or knowledge to answer
4 remaining allegations of paragraph 53, and based upon such a lack of information
5 or knowledge, denies, generally and specifically, each and every allegation thereof.

6 54. Defendant admits that it learned, on or about September 2013, that
7 DOW had abandoned its operations at the Property at some point, leaving various
8 quantities of CRTs and CRT glass in warehouses at the Property, and immediately
9 thereafter went to the Property and removed all of its prior shipments of materials
10 remaining there, as its packages were identifiable as they are unique in the
11 industry. Defendant lacks sufficient information or knowledge to answer the
12 remaining allegations of paragraph 54, and based upon such a lack of information
13 or knowledge, denies, generally and specifically, each and every allegation thereof.

14 55. Paragraph 55 is a legal conclusion and is not a material allegation
15 capable of being admitted or denied, such that no response is required.

16 56. Defendant denies paragraph 56 as to Defendant. Defendant lacks
17 sufficient information or knowledge to answer the remaining allegations of
18 paragraph 56, and based upon such a lack of information or knowledge, denies,
19 generally and specifically, each and every allegation thereof.

20 57. Defendant denies paragraph 57 as to Defendant, as none of
21 Defendant's CRTs or CRT glass remains on Plaintiff's property. Defendant lacks
22 sufficient information or knowledge to answer the remaining allegations of
23 paragraph 57, and based upon such a lack of information or knowledge, denies,
24 generally and specifically, each and every allegation thereof.

25 **JURISDICTION AND VENUE**

26 58. Paragraph 58 is a legal conclusion and is not a material allegation
27 capable of being admitted or denied, such that no response is required.

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1 59. Paragraph 59 is a legal conclusion and is not a material allegation
2 capable of being admitted or denied, such that no response is required.

3 60. Paragraph 60 is a legal conclusion and is not a material allegation
4 capable of being admitted or denied, such that no response is required.

5 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

6 61. Defendant admits that it was a participant in the CEW Program as an
7 approved recycler between 2009-2013 as to CRTs and CRT glass. Defendant lacks
8 sufficient information or knowledge to answer the remaining allegations of
9 paragraph 61, and based upon such a lack of information or knowledge, denies,
10 generally and specifically, each and every allegation thereof.

11 62. Defendant admits that DOW represented itself to Defendant as an
12 intermediate and end-use destination business authorized to receive and further
13 treat, for subsequent recycling of , CRT treatment residuals at its recycling facility
14 in Yuma, Arizona.

15 63. Defendant lacks sufficient information or knowledge to answer the
16 allegations of paragraph 63, and based upon such a lack of information or
17 knowledge, denies, generally and specifically, each and every allegation thereof.

18 64. Defendant admits that DOW solicited business from it that it provided
19 Defendant with documentation supporting its CEW recycling payment claims to
20 CalRecycle, and admits that it shipped CRTs to DOW’s facility for further
21 processing and treatment in 2012. Defendant lacks sufficient information or
22 knowledge to answer the remaining allegations of paragraph 64, and based upon
23 such a lack of information or knowledge, denies, generally and specifically, each
24 and every allegation thereof.

25 65. Defendant admits that in 2012, it submitted CEW recycling payment
26 claims to CalRecycle that identified DOW as one of its downstream/intermediate
27 processors for CRTs/CRT glass. Defendant lacks sufficient information or
28 knowledge to answer the remaining allegations of paragraph 65, and based upon

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1 such a lack of information or knowledge, denies, generally and specifically, each
2 and every allegation thereof.

3 66. Defendant lacks sufficient information or knowledge to answer the
4 allegations of paragraph 66, and based upon such a lack of information or
5 knowledge, denies, generally and specifically, each and every allegation thereof.

6 67. Defendant admits the allegations of paragraph 67 as to Defendant.
7 Defendant lacks sufficient information or knowledge to answer the remaining
8 allegations of paragraph 67, and based upon such a lack of information or
9 knowledge, denies, generally and specifically, each and every allegation thereof.

10 68. Defendant admits the allegations of paragraph 68 as to Defendant.
11 Defendant lacks sufficient information or knowledge to answer the remaining
12 allegations of paragraph 68, and based upon such a lack of information or
13 knowledge, denies, generally and specifically, each and every allegation thereof.

14 69. This allegation does not relate to Defendant and thus no response is
15 required.

16 70. Defendant denies the allegations of paragraph 70 as to Defendant.
17 Defendant admits the allegations of paragraph 67 as to Defendant. Defendant
18 lacks sufficient information or knowledge to answer the remaining allegations of
19 paragraph 70, and based upon such a lack of information or knowledge, denies,
20 generally and specifically, each and every allegation thereof.

21 71. Defendant lacks sufficient information or knowledge to answer the
22 allegations of paragraph 67, and based upon such a lack of information or
23 knowledge, denies, generally and specifically, each and every allegation thereof.

24 **ENVIRONMENTAL RISKS POSED BY CRTS**

25 72. Defendant admits that CRTs are found in old television sets and
26 computer monitors. The remainder of Paragraph 72 is a legal conclusion and is
27 not a material allegation capable of being admitted or denied, such that no response
28 is required.

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1 73. Defendant lacks sufficient information or knowledge to answer the
2 allegations of the first sentence of paragraph 73, and based upon such a lack of
3 information or knowledge, denies, generally and specifically, each and every
4 allegation thereof. The remainder of paragraph 73 is a legal conclusion and is not
5 a material allegation capable of being admitted or denied, such that no response is
6 required.

7 74. Defendant lacks sufficient information or knowledge to answer the
8 allegations of paragraph 74, and based upon such a lack of information or
9 knowledge, denies, generally and specifically, each and every allegation thereof.

10 75. Paragraph 75 is a legal conclusion and is not a material allegation
11 capable of being admitted or denied, such that no response is required.

12 **FIRST CAUSE OF ACTION**

13 **Negligence**

14 **(By Plaintiff against All Defendants)**

15 76. This paragraph is an incorporation of prior allegations. As no specific
16 allegations are made in this paragraph, a response is not warranted. Further, to the
17 extent that a response would be warranted, Defendant hereby incorporates by
18 reference its responses to the allegations referenced in this paragraph.

19 77. Defendant admits the allegations of paragraph 77 as to Defendant.
20 Defendant lacks sufficient information or knowledge to answer the remaining
21 allegations of paragraph 77, and based upon such a lack of information or
22 knowledge, denies, generally and specifically, each and every allegation thereof.

23 78. Paragraph 78 is a legal conclusion and is not a material allegation
24 capable of being admitted or denied, such that no response is required.

25 79. Defendant admits that it is and was a participant in the CEW Program
26 as an approved recycler as to CRTs and CRT glass, and that it shipped CRTs/CRT
27 glass to DOW’s facility in 2012. Defendant lacks sufficient information or
28 knowledge to answer the remaining allegations of paragraph 79, and based upon

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1 such a lack of information or knowledge, denies, generally and specifically, each
2 and every allegation thereof.

3 80. Defendant admits that in 2012, it submitted CEW recycling payment
4 claims to CalRecycle that identified DOW as one of its downstream/intermediate
5 processors for CRTs/CRT glass. Defendant lacks sufficient information or
6 knowledge to answer the remaining allegations of paragraph 80, and based upon
7 such a lack of information or knowledge, denies, generally and specifically, each
8 and every allegation thereof.

9 81. Defendant lacks sufficient information or knowledge to answer the
10 allegations of paragraph 81, and based upon such a lack of information or
11 knowledge, denies, generally and specifically, each and every allegation thereof.

12 82. Defendant admits the allegations of paragraph 82 as to Defendant.
13 Defendant lacks sufficient information or knowledge to answer the remaining
14 allegations of paragraph 82, and based upon such a lack of information or
15 knowledge, denies, generally and specifically, each and every allegation thereof.

16 83. Defendant admits the allegations of paragraph 83 as to Defendant.
17 Defendant lacks sufficient information or knowledge to answer the remaining
18 allegations of paragraph 83, and based upon such a lack of information or
19 knowledge, denies, generally and specifically, each and every allegation thereof.

20 84. Paragraph 84 is a legal conclusion and is not a material allegation
21 capable of being admitted or denied, such that no response is required.

22 85. Defendant admits that once it was notified by DTSC that DOW had
23 abandoned the property, Defendant removed from the property the CRTs/CRT
24 glass that it had previously sent to the property. The remainder of paragraph 85 is
25 a legal conclusion and is not a material allegation capable of being admitted or
26 denied, such that no response is required.

27 86. Defendant denies paragraph 86 as to Defendant as Defendant did
28 remove the CRTs/CRT glass from the property which it had previously shipped to

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1 the property, and sent them to another recycling location. Defendant lacks
2 sufficient information or knowledge to answer the remaining allegations of
3 paragraph 86, and based upon such a lack of information or knowledge, denies,
4 generally and specifically, each and every allegation thereof.

5 87. Defendant denies the allegations of paragraph 87 as to Defendant.
6 Defendant lacks sufficient information or knowledge to answer the remaining
7 allegations of paragraph 87, and based upon such a lack of information or
8 knowledge, denies, generally and specifically, each and every allegation thereof.

9 88. Defendant did remove the CRTs/CRT glass from the property which it
10 had previously shipped to the property, and sent them to another recycling
11 location, and thus acted as a reasonably prudent recycler in compliance with the
12 law. Defendant lacks sufficient information or knowledge to answer the remaining
13 allegations of paragraph 87, and based upon such a lack of information or
14 knowledge, denies, generally and specifically, each and every allegation thereof.

15 89. Defendant denies the allegations of paragraph 89 as to Defendant.
16 Defendant lacks sufficient information or knowledge to answer the remaining
17 allegations of paragraph 89, and based upon such a lack of information or
18 knowledge, denies, generally and specifically, each and every allegation thereof.

19 90. Defendant denies the allegations of paragraph 90 as to Defendant.
20 Defendant lacks sufficient information or knowledge to answer the remaining
21 allegations of paragraph 90, and based upon such a lack of information or
22 knowledge, denies, generally and specifically, each and every allegation thereof.

23 91. Defendant denies the allegations of paragraph 91 as to Defendant.
24 Defendant lacks sufficient information or knowledge to answer the remaining
25 allegations of paragraph 91, and based upon such a lack of information or
26 knowledge, denies, generally and specifically, each and every allegation thereof.

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SECOND CAUSE OF ACTION

Trespass

(By Plaintiff against all Defendants)

92. This paragraph is an incorporation of prior allegations. As no specific allegations are made in this paragraph, a response is not warranted. Further, to the extent that a response would be warranted, Defendant hereby incorporates by reference its responses to the allegations referenced in this paragraph.

93. Paragraph 93 is a legal conclusion and is not a material allegation capable of being admitted or denied, such that no response is required.

94. Defendant lacks sufficient information or knowledge to answer the allegations of paragraph 94, and based upon such a lack of information or knowledge, denies, generally and specifically, each and every allegation thereof.

95. Defendant denies the allegations of paragraph 95 as to Defendant. Defendant lacks sufficient information or knowledge to answer the remaining allegations of paragraph 95, and based upon such a lack of information or knowledge, denies, generally and specifically, each and every allegation thereof.

96. Defendant denies the allegations of paragraph 96 as to Defendant. Defendant lacks sufficient information or knowledge to answer the remaining allegations of paragraph 96, and based upon such a lack of information or knowledge, denies, generally and specifically, each and every allegation thereof.

97. Defendant denies the allegations of paragraph 97 as to Defendant. Defendant lacks sufficient information or knowledge to answer the remaining allegations of paragraph 97, and based upon such a lack of information or knowledge, denies, generally and specifically, each and every allegation thereof.

98. Defendant denies the allegations of paragraph 98 as to Defendant. Defendant lacks sufficient information or knowledge to answer the remaining allegations of paragraph 98, and based upon such a lack of information or knowledge, denies, generally and specifically, each and every allegation thereof.

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1 99. Defendant denies the allegations of paragraph 99 as to Defendant.
2 Defendant lacks sufficient information or knowledge to answer the remaining
3 allegations of paragraph 99, and based upon such a lack of information or
4 knowledge, denies, generally and specifically, each and every allegation thereof.

5 100. Defendant denies the allegations of paragraph 100 as to Defendant.
6 Defendant lacks sufficient information or knowledge to answer the remaining
7 allegations of paragraph 100, and based upon such a lack of information or
8 knowledge, denies, generally and specifically, each and every allegation thereof.

9 **THIRD CAUSE OF ACTION**

10 **Private Nuisance**

11 **(By Plaintiff against All Defendants)**

12 101. This paragraph is an incorporation of prior allegations. As no specific
13 allegations are made in this paragraph, a response is not warranted. Further, to the
14 extent that a response would be warranted, Defendant hereby incorporates by
15 reference its responses to the allegations referenced in this paragraph.

16 102. Paragraph 102 is a legal conclusion and is not a material allegation
17 capable of being admitted or denied, such that no response is required.

18 103. Defendant denies the allegations of paragraph 103 as to Defendant.
19 Defendant lacks sufficient information or knowledge to answer the remaining
20 allegations of paragraph 103, and based upon such a lack of information or
21 knowledge, denies, generally and specifically, each and every allegation thereof.

22 104. Defendant lacks sufficient information or knowledge to answer the
23 allegations of paragraph 104, and based upon such a lack of information or
24 knowledge, denies, generally and specifically, each and every allegation thereof.

25 105. Defendant denies the allegations of paragraph 105 as to Defendant.
26 Defendant lacks sufficient information or knowledge to answer the remaining
27 allegations of paragraph 105, and based upon such a lack of information or
28 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 106. Defendant denies the allegations of paragraph 106 as to Defendant.
2 Defendant lacks sufficient information or knowledge to answer the remaining
3 allegations of paragraph 106, and based upon such a lack of information or
4 knowledge, denies, generally and specifically, each and every allegation thereof.
5 107. Defendant denies the allegations of paragraph 107 as to Defendant.
6 Defendant lacks sufficient information or knowledge to answer the remaining
7 allegations of paragraph 107, and based upon such a lack of information or
8 knowledge, denies, generally and specifically, each and every allegation thereof.
9 108. Defendant denies the allegations of paragraph 108 as to Defendant.
10 Defendant lacks sufficient information or knowledge to answer the remaining
11 allegations of paragraph 108, and based upon such a lack of information or
12 knowledge, denies, generally and specifically, each and every allegation thereof.
13 109. Defendant denies the allegations of paragraph 109 as to Defendant.
14 Defendant lacks sufficient information or knowledge to answer the remaining
15 allegations of paragraph 109, and based upon such a lack of information or
16 knowledge, denies, generally and specifically, each and every allegation thereof.
17 110. Defendant denies the allegations of paragraph 110 as to Defendant.
18 Defendant lacks sufficient information or knowledge to answer the remaining
19 allegations of paragraph 110, and based upon such a lack of information or
20 knowledge, denies, generally and specifically, each and every allegation thereof.
21 111. Defendant denies the allegations of paragraph 111 as to Defendant.
22 Defendant lacks sufficient information or knowledge to answer the remaining
23 allegations of paragraph 111, and based upon such a lack of information or
24 knowledge, denies, generally and specifically, each and every allegation thereof.
25 112. Defendant denies the allegations of paragraph 112 as to Defendant.
26 Defendant lacks sufficient information or knowledge to answer the remaining
27 allegations of paragraph 112, and based upon such a lack of information or
28 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 113. Defendant denies the allegations of paragraph 113 as to Defendant.
2 Defendant lacks sufficient information or knowledge to answer the remaining
3 allegations of paragraph 113, and based upon such a lack of information or
4 knowledge, denies, generally and specifically, each and every allegation thereof.

5 114. Defendant denies the allegations of paragraph 114 as to Defendant.
6 Defendant lacks sufficient information or knowledge to answer the remaining
7 allegations of paragraph 114, and based upon such a lack of information or
8 knowledge, denies, generally and specifically, each and every allegation thereof.

9 **FOURTH CAUSE OF ACTION**

10 **Public Nuisance**

11 **(By Plaintiff against All Defendants)**

12 115. This paragraph is an incorporation of prior allegations. As no specific
13 allegations are made in this paragraph, a response is not warranted. Further, to the
14 extent that a response would be warranted, Defendant hereby incorporates by
15 reference its responses to the allegations referenced in this paragraph.

16 116. Paragraph 116 is a legal conclusion and is not a material allegation
17 capable of being admitted or denied, such that no response is required.

18 117. Defendant denies the allegations of paragraph 117 as to Defendant.
19 Defendant lacks sufficient information or knowledge to answer the remaining
20 allegations of paragraph 117, and based upon such a lack of information or
21 knowledge, denies, generally and specifically, each and every allegation thereof.

22 118. Defendant denies the allegations of paragraph 118 as to Defendant.
23 Defendant lacks sufficient information or knowledge to answer the remaining
24 allegations of paragraph 118, and based upon such a lack of information or
25 knowledge, denies, generally and specifically, each and every allegation thereof.

26 119. Defendant lacks sufficient information or knowledge to answer the
27 allegations of paragraph 119, and based upon such a lack of information or
28 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 120. Defendant denies the allegations of paragraph 120 as to Defendant.
2 Defendant lacks sufficient information or knowledge to answer the remaining
3 allegations of paragraph 120, and based upon such a lack of information or
4 knowledge, denies, generally and specifically, each and every allegation thereof.
5 121. Defendant denies the allegations of paragraph 121 as to Defendant.
6 Defendant lacks sufficient information or knowledge to answer the remaining
7 allegations of paragraph 121, and based upon such a lack of information or
8 knowledge, denies, generally and specifically, each and every allegation thereof.
9 122. Defendant denies the allegations of paragraph 122 as to Defendant.
10 Defendant lacks sufficient information or knowledge to answer the remaining
11 allegations of paragraph 122, and based upon such a lack of information or
12 knowledge, denies, generally and specifically, each and every allegation thereof.
13 123. Defendant denies the allegations of paragraph 123 as to Defendant.
14 Defendant lacks sufficient information or knowledge to answer the remaining
15 allegations of paragraph 123, and based upon such a lack of information or
16 knowledge, denies, generally and specifically, each and every allegation thereof.
17 124. Defendant denies the allegations of paragraph 124 as to Defendant.
18 Defendant lacks sufficient information or knowledge to answer the remaining
19 allegations of paragraph 124, and based upon such a lack of information or
20 knowledge, denies, generally and specifically, each and every allegation thereof.
21 125. Defendant denies the allegations of paragraph 125 as to Defendant.
22 Defendant lacks sufficient information or knowledge to answer the remaining
23 allegations of paragraph 125, and based upon such a lack of information or
24 knowledge, denies, generally and specifically, each and every allegation thereof.
25 126. Defendant denies the allegations of paragraph 126 as to Defendant.
26 Defendant lacks sufficient information or knowledge to answer the remaining
27 allegations of paragraph 126, and based upon such a lack of information or
28 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 127. Defendant denies the allegations of paragraph 127 as to Defendant.
2 Defendant lacks sufficient information or knowledge to answer the remaining
3 allegations of paragraph 127, and based upon such a lack of information or
4 knowledge, denies, generally and specifically, each and every allegation thereof.

5 128. Defendant denies the allegations of paragraph 128 as to Defendant.
6 Defendant lacks sufficient information or knowledge to answer the remaining
7 allegations of paragraph 128, and based upon such a lack of information or
8 knowledge, denies, generally and specifically, each and every allegation thereof.

9 129. Defendant denies the allegations of paragraph 129 as to Defendant.
10 Defendant lacks sufficient information or knowledge to answer the remaining
11 allegations of paragraph 129, and based upon such a lack of information or
12 knowledge, denies, generally and specifically, each and every allegation thereof.

13 130. Defendant denies the allegations of paragraph 130 as to Defendant.
14 Defendant lacks sufficient information or knowledge to answer the remaining
15 allegations of paragraph 130, and based upon such a lack of information or
16 knowledge, denies, generally and specifically, each and every allegation thereof.

17 **FIFTH CAUSE OF ACTION**

18 **Violation of Business and Professions Code 17200 et seq.**

19 **California Unfair Competition Law (“UCL”)**

20 **(By Plaintiff against All Defendants)**

21 131. This paragraph is an incorporation of prior allegations. As no specific
22 allegations are made in this paragraph, a response is not warranted. Further, to the
23 extent that a response would be warranted, Defendant hereby incorporates by
24 reference its responses to the allegations referenced in this paragraph.

25 132. Defendant denies the allegations of paragraph 132 as to Defendant.
26 Defendant lacks sufficient information or knowledge to answer the remaining
27 allegations of paragraph 132, and based upon such a lack of information or
28 knowledge, denies, generally and specifically, each and every allegation thereof.

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1 133. Defendant denies the allegations of paragraph 133 as to Defendant.
2 Defendant lacks sufficient information or knowledge to answer the remaining
3 allegations of paragraph 133, and based upon such a lack of information or
4 knowledge, denies, generally and specifically, each and every allegation thereof.

5 134. Defendant denies the allegations of paragraph 134 as to Defendant.
6 Defendant lacks sufficient information or knowledge to answer the remaining
7 allegations of paragraph 134, and based upon such a lack of information or
8 knowledge, denies, generally and specifically, each and every allegation thereof.

9 135. Defendant denies the allegations of paragraph 135 as to Defendant.
10 Defendant lacks sufficient information or knowledge to answer the remaining
11 allegations of paragraph 135, and based upon such a lack of information or
12 knowledge, denies, generally and specifically, each and every allegation thereof.

13 136. Defendant denies the allegations of paragraph 136 as to Defendant.
14 Defendant lacks sufficient information or knowledge to answer the remaining
15 allegations of paragraph 136, and based upon such a lack of information or
16 knowledge, denies, generally and specifically, each and every allegation thereof.

17 137. Defendant denies the allegations of paragraph 137 as to Defendant.
18 Defendant lacks sufficient information or knowledge to answer the remaining
19 allegations of paragraph 137, and based upon such a lack of information or
20 knowledge, denies, generally and specifically, each and every allegation thereof.

21 138. Defendant denies the allegations of paragraph 138 as to Defendant.
22 Defendant lacks sufficient information or knowledge to answer the remaining
23 allegations of paragraph 138, and based upon such a lack of information or
24 knowledge, denies, generally and specifically, each and every allegation thereof.

25 Defendant further asserts the following affirmative defenses in answer to the
26 Complaint:

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AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Defendant alleges that one or more of the causes of action asserted in the Complaint fail to state a claim against Defendant for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant alleges that the Complaint, and each purported cause of action asserted therein, is uncertain.

THIRD AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiff knowingly and voluntarily assumed the risk, if any, of the damages alleged in the Complaint.

FOURTH AFFIRMATIVE DEFENSE

Defendant alleges that it is not liable to Plaintiff because of the subsequent and intervening acts of Plaintiff, and/or other defendants, third parties and/or acts of God, all of which caused the damages, if any, alleged in the Complaint.

FIFTH AFFIRMATIVE DEFENSE

Defendant alleges that to the extent Plaintiff proves that Defendant, conducted any of the activities alleged in the Complaint, those activities conformed with and were pursuant to statutes, government regulations and/or industry standards based upon the state of knowledge existing at the time of the activities.

SIXTH AFFIRMATIVE DEFENSE

Defendant alleges that by virtue of the acts, conduct and omissions of Plaintiff, Plaintiff is estopped from asserting the claims alleged in the Complaint.

SEVENTH AFFIRMATIVE DEFENSE

Defendant alleges that as a result of the acts, conduct and/or omissions of Plaintiff, Plaintiff has waived its right to assert the purported causes of action in the Complaint.

EIGHTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiff failed to take reasonable steps to mitigate,

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1 reduce or otherwise avoid its alleged damages.

2 **NINTH AFFIRMATIVE DEFENSE**

3 Defendant alleges that some of the causes of action in the Complaint
4 asserted therein are barred by the applicable statutes of limitations, including, but
5 not limited to, C.C.P. §S 337, 337.1, 337.15, 338, 339, 340, 340.8 and 343.

6 **TENTH AFFIRMATIVE DEFENSE**

7 Defendant alleges that by virtue of Plaintiff's unreasonable delay in
8 commencing this action, which delay has caused prejudice to Defendant, certain of
9 the purported causes of action asserted in the Complaint are barred by the doctrine
10 of laches.

11 **ELEVENTH AFFIRMATIVE DEFENSE**

12 Defendant alleges that Plaintiff's claims are barred by the doctrine of
13 unclean hands.

14 **TWELFTH AFFIRMATIVE DEFENSE**

15 Defendant alleges that Plaintiff cannot prove any facts showing that the
16 conduct of Defendant caused or contributed to the claimed damages as alleged in
17 the Complaint.

18 **THIRTEENTH AFFIRMATIVE DEFENSE**

19 Defendant alleges that it is not jointly and severally liable (although such
20 liability is expressly denied) with any defendants or Doe defendants for any
21 damage alleged in the Complaint because any effect of any act or omission of
22 Defendant is divisible and distinct from any compensable damage incurred by
23 Plaintiff.

24 **FOURTEENTH AFFIRMATIVE DEFENSE**

25 Defendant alleges that it is not an agent or employee of any of the alleged
26 Doe defendants, or other named defendants or cross-defendants, nor are any of the
27 alleged Doe defendants or other named defendants or cross-defendants agents or
28 employees of Defendant.

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FIFTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that in the event it is held liable to Plaintiff, which liability is expressly denied, and any other parties are likewise held liable, this answering Defendant is entitled to a percentage contribution of the total liability from each of the named parties in this action, in accordance with the principles of equitable indemnity and comparative contribution.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that whatever damage, injury, loss, or expense may be, or may have been, incurred by Plaintiff under the circumstances and events alleged in the Complaint were solely, directly, and proximately caused, or alternatively, contributed to, by the misconduct, negligence, or wrongful conduct of Plaintiff, other defendants, or third parties. Therefore, Defendant requests that in the event Plaintiff recovers against Defendant whether by settlement or judgment, an apportionment of fault be made by the court or jury as to all parties in the action. Defendant further requests a judgment and declaration of indemnification and contribution against all those parties or persons in accordance with the apportionment of fault.

SEVENTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that any damages sustained by Plaintiff as a result of the incident described in the Complaint were caused solely by the negligence, fault, or lack of care on the part of Plaintiff and/or its agents and were substantially contributed to by the actions or inactions of Plaintiff and/or its agents. Thus, Plaintiff's claims must be barred or reduced proportionally based upon that degree by which Plaintiff's and/or its agents' own actions contributed to the alleged injuries or damages.

EIGHTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that to the extent that the Plaintiff has or will receive collateral source benefits in full or partial payments of the damages sought by the

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1 Complaint, Defendant is entitled to a set off of any recovery against it to the extent
2 of all benefits paid, or payable to, or on behalf of Plaintiffs from any collateral
3 source.

4 **NINETEENTH AFFIRMATIVE DEFENSE**

5 Defendant alleges that, to the extent Plaintiff proves that Defendant
6 conducted any matters alleged in the Complaint, it exercised due care and acted as
7 a reasonably prudent person with respect to all such matters.

8 **TWENTIETH AFFIRMATIVE DEFENSE**

9 Defendant alleges that other named parties, or third parties for whom this
10 defendant is not responsible and has no control over, caused or contributed to the
11 harm, for which liability Defendant specifically denies.

12 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

13 Defendant alleges that some or all of the damages alleged by Plaintiff in the
14 Complaint are not recoverable against Defendant or otherwise.

15 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

16 Defendant alleges that it is not legally responsible for any of the acts and/or
17 omissions of those other defendants herein named as Doe defendants.

18 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

19 As a separate and distinct affirmative defense, this answering Defendant
20 alleges that Plaintiff knew, or in the exercise of ordinary care, should have known
21 of the risks and hazards involved in the undertaking in which they engaged, but
22 nevertheless and with full knowledge of these things, did fully and voluntarily
23 consent to assume the risks and hazards involved in the undertaking.

24 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

25 As a separate and distinct affirmative defense, Defendant exercised the
26 applicable standard of care with respect to all matters alleged in the Complaint.

27 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

28 Defendant alleges that it complied with all governmental standards and

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1 regulations at issue as to this Defendant.

2 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

3 Defendant alleges that Plaintiff is not entitled to recovery of any attorney’s
4 fees against this Defendant.

5 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

6 Defendant alleges that Plaintiff is not entitled to and has not and cannot
7 established any basis for the imposition of any punitive or exemplary damages
8 against this Defendant under Civil Code section 3294 and *College Hospital v.*
9 *Superior Court* (1994) 8 Cal.4th 704.

10 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

11 As a separate and distinct affirmative defense, this answering Defendant
12 alleges that Plaintiff’s claims for punitive damages must fail as a matter of law
13 because Plaintiff has failed to and cannot allege specific facts constituting malice,
14 oppression or fraud as to this Defendant.

15 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

16 As a separate and distinct affirmative defense, there was no negligence,
17 gross negligence, willful, wanton, or malicious misconduct, reckless indifference
18 or reckless disregard of the rights of the plaintiff, or malice (actual, legal, or
19 otherwise) on the part of this Defendant as to the Plaintiff herein.

20 **THIRTIETH AFFIRMATIVE DEFENSE**

21 Defendant alleges that any and all acts or omission of defendant, its agents
22 or employees, which allegedly created a condition of property at the time and place
23 of the accident, were reasonable, and therefore, Defendant is not liable for any of
24 the alleged injuries to Plaintiff.

25 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

26 As a separate and distinct affirmative defense, this answering Defendant
27 alleges that the damages alleged by Plaintiff in the Complaint, if any there were,
28 were solely caused by a condition of property not attributable to any actions or

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1 omissions of Defendant.

2 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

3 Defendant alleges that it did not cause or permit any nuisance on Plaintiff's
4 property within the meaning of Civil Code 3479.

5 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

6 Defendant alleges that it did not invade Plaintiff's exclusive possession of its
7 land/property or trespass on Plaintiff's property.

8 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

9 Defendant alleges that as soon as it was notified by DTSC of DOW
10 abandoning its facility at the property in question, it removed all of the materials
11 which it had previously shipped to the property and sent them to another
12 intermediate/downstream recycler, and that none of Defendant's materials have
13 been present at the property since 2013.

14 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

15 Defendant alleges that Plaintiff is not entitled to disgorgement in connection
16 with its UCL claim.

17 Defendant alleges that Plaintiff does not have standing or the ability under
18 the law to pursue any UCL claims on behalf of the general public.

19 Defendant alleges that Plaintiff is not entitled to injunctive relief against
20 Defendant in connection with its UCL claim or otherwise.

21 Defendant alleges that Plaintiff does not and cannot allege any vested
22 interest in any of the monies for which they seek restitution or disgorgement in
23 connection with their UCL claim.

24 Defendant asserts all applicable defenses pled by any other defendant or
25 cross- defendant to this action, and hereby incorporates the same herein by
26 reference.

27 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

28 Defendant reserves the right to offer additional defenses which cannot now

1 be articulated due to Plaintiffs’ failure to particularize their claims or to
2 Defendant’s lack of knowledge of the circumstances surrounding Plaintiffs’
3 claims. Upon further particularization of the claims by Plaintiff, or upon discovery
4 of further information concerning their claims, Defendant reserves the right to
5 assert additional defenses.

6 WHEREFORE, this answering defendant prays as follows:

- 7 1. Defendant denies the relief sought by way of the prayer contained in
- 8 Plaintiff’s Complaint;
- 9 2. That Plaintiff take nothing by its action against Defendant;
- 10 3. That the Complaint be dismissed as to Defendant;
- 11 4. That Defendant be awarded its costs, and reasonable attorneys’ fees;

12 For such other and further relief as the court deems just and proper.

13 Dated: July 12, 2017

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16 By: /s/Kristin N. Reyna
 17 Kristin N. Reyna
 18 Kiersten A. Martindale
 19 Attorneys for Defendant CEC
 20 ELECTRONIC WASTE
 21 RECYCLING, INC.
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