

# WASTE TRANSPORTATION, DISPOSAL AND RECYCLING AGREEMENT

Contract No –

This Waste Transportation, Disposal and Recycling Agreement (this "Agreement") is entered into as of this \_\_\_\_\_ day of SELECT MONTH, SELECT YEAR, by and between SELECT USE COMPANY, a Delaware company and a US Ecology, Inc. subsidiary having offices at 300 E. Mallard Drive, Suite 300, Boise, Idaho 83706 ("Company") and \_\_\_\_\_, a(n) \_\_\_\_\_ company, having offices at \_\_\_\_\_ ("Customer").

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Customer, in the course of its business, generates or manages certain waste material, hereinafter referred to as "Waste", which requires treatment, storage, disposal and/or recycling services. Company has facilities and the ability to transport, treat, store, dispose of and recycle Waste in a lawful manner. In consideration of the agreements set forth herein, the parties agree as follows:

**I. CONTRACTING PROCEDURE**--Customer shall submit to Company a completed Waste Product Questionnaire ("WPQ") describing Waste to be managed and provide a representative sample (if requested by Company). Submission of a completed WPQ shall constitute Customer's request that Company accept for treatment, storage, disposal and/or recycling the Waste described therein. Company shall indicate its approval of the WPQ by sending Customer a written Waste approval letter and Pricing Addendum that sets forth pricing and specific terms and conditions for Waste receipt. Nothing herein shall require Company to perform an exhaustive analysis of the Waste in order to identify each and every constituent or contaminant contained in the Waste, nor shall any such sampling, analysis or measurement relieve Customer of its responsibility to ensure conformance of the Waste with the specifications set forth in the subject WPQ. Company offers no guarantee or commitment that it will accept any particular type of Waste upon receipt of a WPQ submitted by Customer.

**II. NONCONFORMING WASTE**--Company shall have the right to reject and return to Customer any Waste which deviates from the specifications set forth in the WPQ or contained in any representative sample or supporting information (including analyses) or Waste that contains constituents or physical characteristics not permitted by the terms of the WPQ or contained in any representative sample or supporting information (including analyses) which would alter the hazard, risk or costs assumed by Company in conjunction with its performance hereunder or cause Company to be in non-compliance with any permit (such Waste referred to as "Nonconforming"). Company shall have the right to reject Waste which in Company's reasonable sole opinion and judgment is Nonconforming. In the event Company rejects Nonconforming Waste, Customer shall pay Company's reasonable charges for the handling, analysis, transportation, necessary repackaging and time involved in returning such Nonconforming Waste to Customer.

**III. TITLE AND LIABILITY**--Title to the Waste, together with all responsibility and liability in connection therewith, shall pass to Company upon Company's acceptance of the Waste at Company's facility, unless under the provisions of this Agreement shipment of the Waste is the responsibility of Company, in which event title, responsibility and liability shall pass upon delivery to and acceptance by Company at the commencement of shipment. Title and liability for Nonconforming Waste shall at all times remain with Customer, notwithstanding the fact that physical possession of Nonconforming Waste may have passed to Company. Company may revoke acceptance of Waste at any time, even following disposal, if Waste is determined to be Nonconforming. If title to Waste is revoked at any time by Company, Customer shall pay all costs associated with removal, repackaging and transportation of the Waste to Customer.

**IV. LOADING AND TRANSPORTATION**--Shipment of the Waste shall be the responsibility of Customer under provisions specified in a Technical and Transportation Requirements Addendum unless Customer arranges with Company to provide transportation. Company shall comply with all applicable statutes, rules, regulations and ordinances of the United States and all applicable state and local regulations in moving, handling, transporting, disposing of and/or recycling the Waste. Customer shall be responsible for proper, legal loading of the Waste on vehicles provided or arranged for by Company. The parties agree and understand that reasonable, justified refusal by drivers or other employees of Company or its subcontractors to load, handle, transport, dispose of and/or recycle Nonconforming Waste will not be considered a breach of this Agreement.

## **V. COMPANY WARRANTIES--COMPANY WARRANTS AND REPRESENTS TO CUSTOMER:**

**A.** Company has appropriate expertise and is engaged in the business of loading, transporting, storing, treating, disposing of and recycling Waste.

**B.** Company will load, transport, store, treat, dispose of and/or recycle the Waste in compliance with all valid and applicable statutes, ordinances, orders, rules and regulations of the federal, state and local governments in whose jurisdiction such activities are performed under this Agreement.

## **VI. CUSTOMER WARRANTIES--CUSTOMER WARRANTS AND REPRESENTS TO COMPANY:**

**A.** The data and information set forth herein, including the WPQ(s), are correct and in accordance with all applicable waste regulations.

**B.** The Waste to be delivered to Company will conform to the description provided in the WPQ(s) and any representative samples or supporting information (including analyses).

**C.** Customer warrants that it has advised Company of all known potential health and/or environmental problems associated with the Waste.

## **VII. INDEMNIFICATION**

**A. COMPANY INDEMNIFICATION**--COMPANY SHALL INDEMNIFY AND HOLD HARMLESS CUSTOMER, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM SUCH CIVIL PENALTIES, CLAIMS AND CAUSES OF ACTION (INCLUDING COURT COSTS AND REASONABLE ATTORNEY FEES) AS MAY BE BROUGHT ON ACCOUNT OF DEATH OR BODILY INJURY TO ANY PERSON; DESTRUCTION OR DAMAGE TO ANY PROPERTY; INJURY TO, DESTRUCTION OF, OR LOSS OF NATURAL RESOURCES; OR ANY VIOLATION OF ANY FEDERAL OR STATE LAW, REGULATION OR MUNICIPAL ORDINANCE AND WHICH RESULT FROM OR ARISE OUT OF COMPANY'S NEGLIGENCE, WILLFUL MISCONDUCT, BREACH OF WARRANTY OR FAILURE TO PERFORM SERVICES IN ACCORDANCE WITH THIS AGREEMENT. COMPANY'S DUTY TO INDEMNIFY IS INAPPLICABLE TO THE EXTENT THAT SUCH PENALTIES, CLAIMS OR CAUSES OF ACTION RESULT FROM

CUSTOMER'S DELIVERY TO COMPANY OF NONCONFORMING WASTE.

**B. CUSTOMER INDEMNIFICATION**--CUSTOMER SHALL INDEMNIFY AND HOLD HARMLESS COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM SUCH CIVIL PENALTIES, CLAIMS AND CAUSES OF ACTION (INCLUDING COURT COSTS AND REASONABLE ATTORNEY FEES) AS MAY BE BROUGHT ON ACCOUNT OF DEATH OR BODILY INJURY TO ANY PERSON; DESTRUCTION OR DAMAGE TO ANY PROPERTY; INJURY TO, DESTRUCTION OF, OR LOSS OF NATURAL RESOURCES; OR ANY VIOLATION OF ANY FEDERAL OR STATE LAW, REGULATION OR MUNICIPAL ORDINANCE, AND WHICH RESULT FROM OR ARISE OUT OF CUSTOMER'S NEGLIGENCE, WILLFUL MISCONDUCT, BREACH OF WARRANTY, DELIVERY TO COMPANY OF NONCONFORMING WASTE OR FAILURE OF CUSTOMER TO PERFORM ITS RESPONSIBILITIES UNDER THIS AGREEMENT.

**C.** Notwithstanding the foregoing, neither party will be liable for, and each party waives and releases any claims against the other party for any consequential damages, including lost revenues, lost profits or loss of prospective economic advantage resulting from performance or failure to perform under this Agreement, whether or not the party was advised of the possibility of such damages.

**VIII. INDEPENDENT CONTRACTOR**--Company is and shall be an independent contractor in the performance of all services under this Agreement. Company shall exercise exclusive control of the operation and activities of all employees, agents and subcontractors of Company at all times. Neither Company nor Customer shall have any authority to employ any person as an employee, agent or subcontractor for or on behalf of the other.

**IX. CONFIDENTIALITY**--Company and Customer shall treat as confidential and not disclose to others during or subsequent to the term of this Agreement, except as is necessary to perform this Agreement, any information regarding either party's plans, programs, plants, processes, products, costs, equipment, operations or customers which may come within the knowledge of the parties in the performance of this Agreement. This clause does not prevent disclosures required by law. The foregoing obligations shall survive the termination of this Agreement.

**X. FORCE MAJEURE**--The parties agree that any delay or failure of either party to perform its obligations under this Agreement, except for the payment of money for services already rendered, shall be excused if and to the extent caused by acts of God, strikes, action of regulatory agencies, fire, flood, windstorm, explosion, riot, war, sabotage or other cause or causes beyond the reasonable control of the party affected. Company also shall be excused from performance of this Agreement if Company loses or has suspended any license, permit or other authorization necessary for fulfilling its obligations. Both parties shall provide prompt notice of such delay and work diligently to remove such cause or causes.

**XI. SAVINGS CLAUSE**--If any part of this Agreement becomes invalid for any reason, the validity of the Agreement as a whole or of any other part will not be affected.

**XII. PAYMENT**--Company will submit the original of each invoice to the following Customer address:

Payments shall be made in cash at the time Waste is accepted for treatment, storage, disposal and/or recycling by Company unless credit has been approved by Company, in which event payment shall be made

within thirty (30) days of invoice date at the following address: **P.O. Box 26273, Salt Lake City, UT 84126-0273**. All amounts due and payable for more than thirty (30) days after invoice date shall bear interest at the rate of one and one-half percent (1 1/2%) per month. Customer will notify Company of any disputed amounts within thirty (30) days of receiving the invoice. The portion of any invoice that is not disputed within such period shall be deemed accepted by Customer. During the ten (10) business days following notification of a disputed amount, the Parties will attempt to resolve any disputed portions of such invoice and, if resolved, an adjusted payment will be submitted to Company for the agreed-to amount.

**XIII. ASSIGNMENT**--Neither party shall assign any of its rights or obligations under this Agreement without the prior written consent of the other party, provided that Company may sub-contract parts of its obligations to qualified parties.

**XIV. ENTIRE AGREEMENT**--This Agreement, including the Pricing Addendum, Technical and Transportation Requirements Addendum and any WPO approved by the parties, contains the entire agreement between the parties with regard to the matters dealt with in this Agreement. No modifications or amendments shall be of any force or effect unless they are in writing and signed by the parties to be bound. This Agreement supersedes and takes precedence over any prior agreement between the parties.

**XV. GOVERNING LAW**--This Agreement shall be construed and interpreted in accordance with federal laws and the laws of the state in which Company's facility is located.

**XVI. ASSIGNS AND SUCCESSORS**--The covenants and agreements contained in this Agreement shall apply to the parties hereto and their respective heirs, executors, administrators, assigns, and successors in interest.

**XVII. NOTICE**--Any notice, communication or statement required or permitted to be given hereunder shall be in writing and shall be deemed to have been sufficiently given when delivered either in person or by registered or certified mail, postage prepaid, return receipt requested, to the appropriate address listed in the signature section of this Agreement.

**XVIII. TERM OF AGREEMENT**--The term of this Agreement shall be for a period of three years from the date written above and shall be automatically renewed on the anniversary date thereof for a like period until such time as either party terminates the Agreement upon thirty (30) days prior written notice to the other party. Prices stated in the Pricing Addendum may be changed by Company by giving Customer notice in writing of such change at least seven days before the effective date thereof. If any change in price is refused by Customer, Company may terminate this Agreement upon immediate written notice to Customer.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

**COMPANY: SELECT USE COMPANY**

By:  
Name:  
Title:  
Date:

**CUSTOMER:**

By:  
Name:  
Title:  
Date: