



SERVICES AGREEMENT

This Services Agreement ("Agreement") is entered into as of this DATE day of MONTH, YEAR by and between **SELECT USE ENTITY**, having offices at ENTER USE ENTITY OFFICE ADDRESS ("Contractor"), and, **ENTER CUSTOMER ENTITY** having offices at ENTER CUSTOMER OFFICE ADDRESS ("Customer"). Contractor and Customer may be referred to in this Agreement as "Parties" and individually as "Party".

Customer, in the course of its business, generates, utilizes, or manages certain waste or other material ("Waste"), and may require transportation, treatment, storage, disposal, recycling, emergency response, the provision of goods or equipment, or other services (collectively, "Services"). In consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. PROCEDURE. Except as otherwise directed by Contractor, Customer will submit to Contractor a completed waste product questionnaire ("WPQ") or similar document describing Waste to be managed or Services requested, and provide a representative sample (if Contractor requests). Submission of said document constitutes Customer's request that Contractor perform the requested Services. Contractor will indicate its approval of a WPQ or Services request by sending Customer a waste approval letter, pricing addendum, or similar document (if necessary) that sets forth pricing and specific terms and conditions for the Services. Contractor is not required to perform an exhaustive analysis of the Waste in order to identify every constituent or contaminant in the Waste, nor will any Contractor analysis relieve Customer of its responsibility to ensure the Waste conforms to the subject WPQ specifications. Contractor does not guarantee that it will accept any particular type of Waste upon receipt of a WPQ. Customer authorizes Contractor to immediately commence performance of the requested Services as Contractor deems necessary. Customer further authorizes Contractor, unless otherwise stated in a scope of work or similar document requesting Services, to determine all aspects of the Services in Contractor's sole discretion.

2. NONCONFORMING WASTE. Any Waste which deviates from the specifications set forth in the WPQ, or contained in any representative sample or supporting information or analyses, or that could alter the hazard, risk, or cost assumed by Contractor in conjunction with its performance hereunder, or cause Contractor to be in noncompliance with any permit or other authorization is nonconforming waste ("Nonconforming Waste"). If Contractor determines that any Waste is Nonconforming Waste, it will have the right to reject, revoke acceptance of, or determine alternative disposal for, such Nonconforming Waste and convey it to Customer or another location. In such event Customer will pay Contractor's reasonable costs for the handling, analysis, transportation, repackaging, and time involved in conveying such Nonconforming Waste to Customer or other location, or arranging for alternative disposal.

3. TITLE AND LIABILITY. Title to Waste, together with all responsibility and liability in connection therewith, will pass to Contractor upon Contractor's acceptance of the Waste at Contractor's facility unless shipment of the Waste is the responsibility of Contractor, in which event title, responsibility and liability will pass upon delivery to, and acceptance by, Contractor at the commencement of shipment. Title and liability for Nonconforming Waste will remain with Customer at all times, regardless of whether physical possession of Nonconforming Waste has passed to Contractor.

4. LOADING AND TRANSPORTATION. Transportation of the Waste will be the responsibility of Customer unless Customer arranges with Contractor for Contractor to provide transportation. Customer will be responsible for proper and legal loading of the Waste on vehicles provided or arranged for by Contractor. The Parties agree and understand that reasonable, justified refusal by drivers or other employees of Contractor or its subcontractors to load, transport, handle,

dispose of and/or recycle Nonconforming Waste will not be considered a breach of this Agreement.

5. EQUIPMENT.

A. Equipment provided by Contractor is rented to Customer at the rates and applicable surcharges specified in the applicable proposal, price quotation, or similar document, and pursuant to any terms included in all Contractor provided documents. Contractor will direct delivery and pick up of the equipment, at Customer's expense. A fuel surcharge, based on the weekly CAA posted rate, will apply to all diesel-powered equipment unless Contractor directs otherwise in writing.

B. Customer accepts the equipment in "as is" condition and certifies it has inspected the equipment and the equipment is in clean and proper working condition. Contractor makes no guarantees, warranties, or other representations, express or implied, regarding the equipment as to merchantability, fitness for a particular purpose, or otherwise. Customer acknowledges that it shall not acquire any rights in the equipment and that additional fees will apply: (i) for related surcharges and taxes, (ii) if Contractor provides or directs delivery, pick up, repair, maintenance, cleaning, or any other related service, (iii) if any agency assesses a fee related to the equipment, (iv) to all related accessories, attachments, replacement units or parts, substitutions, additions, upgrades, and exchanges, and (v) as otherwise directed by Contractor.

C. Customer will comply with all applicable laws, regulations, rules, and orders, in its operation and management of the equipment, and will ensure that only trained, qualified, and licensed operators of Customer use the equipment. Customer shall not assign or sublease its right to use the equipment. Customer will maintain the equipment in good repair and working order at its sole cost. Customer will not alter the equipment without Contractor's written consent, and any alterations will become Contractor's property. Customer shall not acquire any rights in the equipment.

D. Contractor is not obligated to confirm the existence or adequacy of Customer's insurance, or to provide insurance for the equipment or Customer's benefit. Customer will maintain insurance against equipment loss, theft, damage, and destruction, in an amount greater than or equal to the equipment's full replacement value, with loss payable to Contractor. Customer will also maintain sufficient comprehensive general all-risk liability insurance, including product liability coverage, insuring Contractor and Customer with a severability of interest endorsement or its equivalent, against all loss or liability for damages either to persons or property or otherwise, which might happen in connection with the condition, use, or operation of the equipment. Customer will provide Contractor with a certificate of insurance along with copies of endorsements that confirms such required insurance coverage, designates Contractor as loss payee and/or additional insured, and provides that said insurance will not be invalidated by any act, omission, or neglect of Customer and cannot be cancelled without 30 days written notice to Contractor.

E. Customer's site must be accessible for the size and type of equipment rented. If any vehicle or other equipment provided by Contractor arrives at Customer's site and if, for any reason except for mechanical difficulties, Waste not picked up as intended or delivery is not completed to Customer, the Customer will be

responsible to pay the full transportation charge, any applicable minimum at the quoted rate, and any applicable portal-to-portal technician fee.

F. Upon termination of this Agreement, or any purchase order or similar document related to the equipment rental, Contractor will arrange to pick up the equipment at Customer's cost, and Customer will ensure the equipment is in the same or better condition as when initially received by Customer, with the interior and exterior clean and free of any foreign matter. Contractor may perform, in its discretion, any additional cleaning, at Customer's expense. If Customer fails to return the equipment as directed, Contractor is authorized to proceed by any lawful means to recover the equipment, and Customer will pay all costs related to Contractor's repossession.

6. CUSTOMER WARRANTIES. CUSTOMER WARRANTS AND REPRESENTS TO CONTRACTOR:

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

B. The Waste delivered to Contractor will conform to the description provided in the WPQ(s) and representative samples, supporting information, and analyses.

C. Customer has advised Contractor of all known potential health and environmental problems associated with the Services.

7. CONTRACTOR WARRANTIES. CONTRACTOR WARRANTS AND REPRESENTS TO CUSTOMER:

A. Contractor is engaged in the business of performing the Services and has appropriate expertise, facilities, and ability to perform the Services in a lawful manner.

B. Contractor will perform the Services in compliance with all applicable statutes, ordinances, orders, rules and regulations of the federal, state and local governments.

8. INDEMNIFICATION

A. **CONTRACTOR INDEMNIFICATION.** Contractor will indemnify and hold harmless Customer, its officers, directors, employees, and agents from such civil penalties, costs, claims, and causes of action, including court costs and reasonable attorney fees, that may be brought or incurred on account of death or bodily injury to any person; 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 ("Losses"), to the extent arising out of Contractor's negligence, willful misconduct, breach of warranty, or failure to perform Services in accordance with this Agreement.

B. **CUSTOMER INDEMNIFICATION.** Customer will indemnify and hold harmless Contractor, its officers, directors, employees, and agents from such Losses to the extent arising out of Customer's negligence, willful misconduct, breach of warranty, provision of Nonconforming Waste, or failure to perform its responsibilities related to this Agreement. In addition, Customer releases, indemnifies, and holds harmless, Contractor and its officers, directors, employees, and agents, from all Losses in any way related to the equipment provided by Contractor to Customer, or the acts or omissions of Customer or any third party.

C. **CONSEQUENTIAL DAMAGES.** Neither Party will be liable for, and each Party waives any claims against the other for, any consequential, special, or punitive damages, including, for example, 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.

9. **INDEPENDENT CONTRACTOR.** Neither Contractor nor any of its employees will ever be considered Customer's employee, agent, or representative under this Agreement. Contractor will be an independent contractor for purposes of this Agreement, and will exercise exclusive control of the operation and activities of all of its employees, agents, and subcontractors. Neither Party will have any authority to employ any person as an employee, agent, or subcontractor on behalf of the other.

10. **AFFILIATES.** The term "Affiliate" means any existing or future entity that controls, is controlled by, or is under common control with, Contractor. At any time during this Agreement, an Affiliate may perform Services for Customer under the same terms of this Agreement pursuant to a proposal, purchase order, or similar document, signed by both Customer and Affiliate, which references this Agreement. When an Affiliate so performs, all references to Contractor herein will refer only to the Affiliate performing the Services, as if this Agreement was entered into only between that Affiliate and Customer. In no event will Customer hold Contractor, or any other nonperforming Affiliate, liable or jointly liable for Services that were not performed by Contractor or other Affiliate, by virtue of the fact that Services were performed by a particular Affiliate.

11. **CONFIDENTIALITY.** Contractor and Customer will treat as confidential and not disclose to others, except as required by law or legal process or necessary to perform the Services, any information regarding the other Party's plans, business, plants, processes, products, costs, equipment, operations, or customers which may come within its knowledge in the course of this Agreement. The foregoing obligations will survive the termination of this Agreement for a period of 3 years.

12. **FORCE MAJEURE.** The Parties agree that any delay or failure of either Party to perform under this Agreement, except for the payment of money for Services rendered, will be excused to the extent caused by acts of God, strikes, action of regulatory agencies, fire, flood, windstorm, explosion, riot, war, sabotage, or other reasons beyond the reasonable control of the Party affected. Contractor will also be excused from performance if it loses, or has suspended, any license, permit, or other authorization necessary for its performance. The delayed Party will provide prompt notice of such delay and work diligently to remove such cause.

13. **SAVINGS CLAUSE.** If any part of this Agreement becomes invalid for any reason, the validity of the remaining Agreement will not be affected.

14. **PAYMENT.** Contractor will submit each invoice to Customer at:
ENTER CUSTOMER BILLING ADDRESS

Customer will pay in cash at the time Waste is accepted, or at the time the Services are provided, unless credit has been approved by Contractor, in which event Customer will pay within 30 days of invoice date at the address indicated on Contractor's invoice. All amounts outstanding more than 30 days after invoice date will bear interest at the rate of 1 ½ % per month. Customer will notify Contractor of any disputed amounts within 30 days of the invoice date. The portion of any invoice not disputed within such period will be deemed accepted by Customer. During the 10 business days following notification of a disputed amount, the Parties will attempt in good faith to resolve said amount and, if resolved, Customer will immediately pay the agreed-upon amount to Contractor. **Please check if a purchase order number is required on the invoice for payment.**

15. **CONTRACTOR INSURANCE.** Contractor will maintain the following insurance coverages for this Agreement:

A. workers compensation with statutory limits and employer's liability insurance with a limit not less than \$1,000,000 per accident;

B. commercial or general liability insurance coverage for premises and operations, contractual liability completed operations, with limits of not less than \$1,000,000 per occurrence for bodily injury, death, and property damage and \$2,000,000 per aggregate, naming Customer as an additional insured to the extent of Contractor's indemnity;

C. automobile liability insurance (including owned, non-owned and hired vehicles) with limits as required by law or with a combined single limit for bodily injury, death and property damage of not less than \$1,000,000 per occurrence, whichever is greater;

D. pollution legal liability with limits of \$20,000,000 per occurrence and \$20,000,000 annual aggregate; and

E. excess liability with limits of \$10,000,000 per occurrence.

16. **ASSIGNMENT.** Customer may not, without Contractor's written consent, assign any of Customer's rights or obligations in this Agreement. Contractor may assign its rights and obligations hereunder, to any parent, affiliate, or subsidiary, or in connection with any sale, transfer or other disposition of all, or substantially

all, of its business, provided, that any assignee assumes Contractor's obligations hereunder. Contractor may sub-contract parts of its obligations to qualified parties. This Agreement will be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

17. ACKNOWLEDGEMENT. Customer acknowledges that Contractor's provision of response related Services is on an as-available basis and does not guarantee Contractor's response or a response within a specific time period, and Customer may not name Contractor in its state and federal contingency plan. Customer further acknowledges and agrees that Contractor does not, in any way, represent or warrant that Contractor will recover any specific quantity of Waste, or that any specific level of cleanliness will be achieved. CONTRACTOR DOES NOT REPRESENT OR WARRANT THAT, AND CUSTOMER WAIVES ANY CLAIMS THAT, ITS SERVICES WILL RENDER ANY REAL OR PERSONAL PROPERTY, SAFE FOR ANY FORM OF HUMAN ACTIVITY OR OCCUPATION, OR IN COMPLIANCE WITH ANY APPLICABLE LAW.

18. ENTIRE AGREEMENT. This Agreement, including the pricing addendum, purchase order or other applicable pricing document, and WPQ approved by the Parties, contains the entire agreement between the Parties regarding to the matters addressed herein, although no preprinted or standard terms on any Customer provided document will apply and a Customer's document will only apply to the extent necessary to describe the Services. No modifications or amendments hereto will be effective unless they are in writing and signed by both Parties. This Agreement supersedes any prior agreement between the Parties regarding the subject matter herein.

19. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the state where disposal occurs, or if no disposal occurs, the state where the majority of the Services are performed, without giving effect to applicable principles of conflicts of law to the extent that the laws of another jurisdiction would be applicable thereby.

20. NOTICE. Any notice or communication required hereunder will be in writing and will be deemed to have been given when delivered either in person or by registered or certified mail, postage prepaid, return receipt requested, or via electronic mail with receipt confirmation, to the person listed in the below signature block, or other Party representative that a Party may direct in writing.

21. TERM OF AGREEMENT. This Agreement will continue for a period of 3 years from the date above and will automatically renew for successive periods of 1 year each. Either Party may terminate this Agreement upon 30 days prior written notice to the other. Contractor may change the prices stated in the subject pricing addendum or other applicable pricing document, or as otherwise agreed to in writing by the Parties, by giving Customer notice of such change at least 7 days before the effective date thereof. If any change in price is refused by Customer, Contractor may terminate this Agreement upon notice to Customer.

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

By CONTRACTOR:

Signature: _____
Name:
Title:
Date:

By CUSTOMER:

Signature: _____
Name:
Title:
Date:

CONTRACTOR AND ITS SUBSIDIARIES ARE AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYERS M/F/DISABLED/VETERAN.