

1. **SERVICES RENDERED; WASTE MATERIALS.** Customer grants to Company and its agents the exclusive right to furnish, and Company shall furnish the services described on the reverse side (the "Services"), as may be more fully described in the Services Introduction Letter provided by Company to Customer, as may be amended from time to time by Company in its sole discretion (the "Services Introduction Letter"). Customer shall permit Company to install Waste Containers (defined in Section 11 below) in order to provide the Services to Customer. Customer represents and warrants that the materials to be collected under this Agreement shall be only "Waste Materials" as defined herein. For purposes of this Agreement, "Waste Materials" means all non-hazardous solid waste and recyclable materials generated by Customer at the address of the Customer's location where the Services are to be performed (the "Service Address"). Notwithstanding the foregoing, or any other provision hereof, Waste Materials specifically excludes, and Customer agrees not to deposit or permit the deposit for collection of any, including without limitation, a) regulated medical or hazardous waste, toxic substance or material as defined by, characterized or listed under any applicable federal, state, or local law, rule or regulation, b) demolition debris, industrial process wastes or any item that does not fit in the closed Waste Container, or c) radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious or bio-hazardous materials (collectively, "Excluded Materials"). Title to and liability for Excluded Material shall remain with Customer at all times.
 2. **TERM.** The initial term of this Agreement is sixty (60) months from the Effective Date set forth on the reverse side ("Initial Term"). This Agreement shall automatically renew thereafter for additional periods of sixty (60) months each ("Renewal Term") unless either party gives to the other party at least ninety (90) days prior written notice (see Section 11) of termination. Customer shall grant to Company the right of first refusal to match any offer relating to services similar to those provided hereunder which Customer receives (through solicitation or otherwise) upon termination of this Agreement for any reason and Customer shall give Company prompt written notice of any offer and a reasonable opportunity to respond to it.
 3. **CUSTOMER REQUIREMENTS.** In addition to other obligations of Customer described herein: Customer shall ensure compliance with the Services Introduction Letter; and Customer shall provide adequate disposal facilities, including dumpsters, compactors, and/or other necessary equipment, to enable Company to perform the Services, unless such facilities are part of the Services described on the reverse side. Customer shall be subject to fees, at Company's discretion, for each day Company is unable to perform services. Customer shall at all times be responsible for the actions and omissions of all third parties who are at any time on the property where Services are provided, including, without limitation, Customer's tenants on such property and all licensees and invitees on such property (each, a "Third Party").
 4. **SERVICES GUARANTY.** If the Company fails to materially perform any Services, Customer may send written notice (see Section 11) to Company demanding that Company perform such Services. If Company fails to perform valet removal Services required of Company hereunder within two (2) business days, or other Services required of Company hereunder within five (5) business days, of its receipt of the written notice, Customer may (as its sole remedy for such failure by Company) terminate this Agreement within five (5) business days of failure to cure with the payment of all monies due through the date of notification.
 5. **CHARGES; PAYMENTS; ADJUSTMENTS.** Customer shall pay for the Services furnished by Company in accordance with the charges on the reverse side, as adjusted hereunder ("Charges"), as well as all other amounts to be paid by Customer hereunder, within thirty (30) days of the date of Company's invoice. Customer shall pay a service charge on all past due amounts accruing from the date of the invoice at a rate of eighteen percent (18%) per annum or, if less, the maximum rate allowed by law. Company may at any time increase the Charges to account for: any increase in disposal, fuel, or transportation costs incurred by Company in the performance of the Services; any change in the composition of the Waste Materials; any increase in the average weight per container of Waste Materials; any increase or decrease in the number of Waste Containers subject to the Services; and increased costs due to uncontrollable circumstances, including, without limitation, changes in local, state, or federal laws or regulations, imposition of taxes, fees, or surcharges and acts of God, such as floods, fires, etc. Additionally, Company may increase the Charges five percent (5%) annually as a general cost of living adjustment. Increases in Charges for reasons other than as provided above require the consent of Customer, which may be evidenced verbally, in writing, or by the actions and practices of the parties.
 6. **CHANGES.** Any changes in the regular Services to be provided, any changes to these Terms and Conditions, and any discounts, reductions, or other decreases in the Charges to be paid by Customer must be agreed to in writing by Company. Additional monthly service Charges may apply to changes in the regular Services to be provided.
 7. **WASTE CONTAINERS; ACCESS.** All Waste Containers furnished by Company shall remain the property of Company; however, Customer shall bear the risk of loss for all loss or damage to the Waste Containers and for its contents while at Customer's location, and Customer shall be responsible and liable for the proper use and maintenance of the Waste Containers and for any damages or liability of any kind resulting in any manner and for any reason from the use of the Waste Containers by any person. If Customer selects Benches and requests they be bolted down, Customer shall indemnify and hold Company harmless against any loss or damage resulting from the installation or removal of Benches. Customer shall not overload, move (without Company's prior written permission), or alter the Waste Containers and shall use the Waste Containers only for their intended purpose, and in full compliance with all warning labels thereon and any other instructions provided (directly or indirectly) by Company or any manufacturer to Customer. At the termination of this Agreement, Customer shall within fourteen (14) days of the termination return the Waste Containers to Company (at the address on the front side of this Agreement or at any other location(s) designated by Company) in a clean condition and in the condition in which they were provided by Company to Customer, without any damage or modifications or changes of any kind. If any Waste Container is damaged or modified or changed in any way, Customer shall still have an obligation to return such Waste Container to Company as provided herein in whatever condition it is in, and shall additionally (regardless of the amount of damage, modification or change) pay Company: seventy-five dollars (\$75.00) for each such damaged, modified, changed, lost or destroyed Bench or Trash Box, and twenty dollars (\$20.00) for each Waste Can. All costs and expenses related to any storage, return and delivery of the Waste Containers by Customer shall be the sole responsibility of Customer. Customer shall bear all risk of loss related to any such storage, return and delivery. All of Customer's obligations and responsibilities hereunder shall continue until Customer has returned and delivered all of the Waste Containers to Company in full compliance with this Agreement, and Company has accepted the return of the Waste Containers. In addition to any other rights and remedies that may be available to Company, if Customer fails to return any Waste Container to Company when and as required by this Agreement, Customer shall pay Company two dollars and fifty cents (\$2.50) per day for each Waste Container not properly returned commencing on the date such return was required hereunder and ending when such Waste Containers are returned by Customer to Company in full compliance with the terms of this Section 7. Without limitation to the foregoing, if Customer does not return any Waste Container when and as required herein, Company may (at its option and without obligation) enter onto Customer's premises and repossess and take possession of all of the Waste Containers. In such event, Customer shall be obligated to pay Company an amount equal to all costs and expenses incurred by Company in the repossession of such Waste Containers. Company represents that the Waste Containers provided by Company to Customer are reasonably adequate for the short-term storage of Waste Materials, when (and only when) such Waste Containers are used in full compliance with
- these Terms and Conditions, the Services Introduction Letter and all warning labels thereon and any other instructions provided (directly or indirectly) by Company or manufacturer to Customer. Customer shall provide unobstructed access to the Waste Containers and necessary equipment on the scheduled collection day(s). If Customer fails to provide such access, Company shall resume service on the next regularly scheduled service day with no liability or penalty assessed to Company and no adjustment in the monthly fee. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, CUSTOMER ACCEPTS ANY WASTE CONTAINERS PROVIDED BY COMPANY "AS IS" AND COMPANY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND TO CUSTOMER, WITH RESPECT THERETO OR OTHERWISE, AND EXPRESSLY DISCLAIMS ALL SUCH REPRESENTATIONS AND WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.
8. **CUSTOMER DEFAULT; LIQUIDATED DAMAGES.** If Customer defaults under this Agreement, Customer shall be subject to cancellation, fees and/or liquidated damages as detailed herein. Customer shall be in "default" of this Agreement upon (i) its failure to pay any amount under this Agreement when due, (ii) its failure to meet any of the requirements listed in Section 3, (iii) its insolvency or bankruptcy, (iv) or its failure to comply with any other term of this Agreement, the Services Introduction Letter, or any other agreement between the parties. Without limitation to any other rights or remedies that may be available to Company, at law or equity, Company may terminate this Agreement upon a default by Customer. In the event Customer terminates this Agreement prior to the expiration of any term for any reason other than a default by Company (pursuant to Section 4), or in the event Company terminates this Agreement for Customer's default, Customer shall (without limitation to any other rights or remedies that may be available to Company, at law or equity and without limitation to Customer's obligation to return the Waste Containers pursuant to Section 7 or any other obligation hereunder or any amount that may be owed by Customer to Company under Section 7 or any other provision hereof) pay the following liquidated damages in addition to the Company's legal fees: Customer shall pay its most recent monthly charges multiplied by the number of months remaining in the term; If under the Renewal Term, Customer shall pay two times its most recent monthly charges multiplied by three (3). Customer acknowledges that the actual damage to Company in the event of termination is impossible to fix or prove, and the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to Company resulting from such termination and is an agreed upon fee and is not imposed as a penalty.
 9. **LIMITATION OF LIABILITY.** Company shall not be liable under any circumstances for any special, incidental, consequential or punitive damages or any lost profits arising out of or in connection with the performance of this Agreement, even if it has been advised of the possibility of such damages.
 10. **INDEMNITY.** Subject to Section 9, Company agrees to indemnify, defend, and save Customer harmless from and against any and all liability, losses, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees) which Customer may incur, to the extent solely caused by any gross negligence or willful misconduct of the Company or its employees, which occurs during the collection or transportation of Customer's Waste Materials after the date of this Agreement, provided that the Company's indemnification obligations will not apply to occurrences involving Excluded Materials, and provided, further, that under no circumstances shall Company's liability (in the aggregate) to Customer hereunder (whether for indemnification or otherwise) exceed the total amount of payments actually made by Customer to Company pursuant to this Agreement during the first twelve (12) months of the term of this Agreement. Customer agrees to indemnify, defend, and save the Company and its employees, agents and affiliates (including, without limitation, Cascade Engineering, Inc.) harmless from and against any and all liability, losses, damages, costs, and expenses (including, without limitation, attorneys' fees) which the Company or any of its employees, agents or affiliates may incur, to the extent caused by Customer's breach of this Agreement or by any act or omission (whether or not negligent), or willful misconduct of the Customer or its employees, agents, or contractors, or any Third Party, including, without limitation, caused by any use by Customer or its employees, agents or contractors, or any Third Party, of any Waste Containers supplied by Company.
 11. **MISCELLANEOUS.** (a) Except for the obligation to make payments hereunder, neither party shall be in default for its failure to perform or delay in performance caused by events beyond its reasonable control including, but not limited to, strikes, riots, imposition of laws or governmental orders, fires, acts of God, acts of terrorism, inability to obtain Waste Containers and similar events, and the affected party shall be excused from performance during the occurrence of such events. (b) This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns. (c) Customer represents, warrants and agrees that the Services fall outside of the scope of any contract that Customer may have with a waste broker or similar entity. Company shall not be obligated to sign an agreement with, report to, coordinate services with, or otherwise interact with any waste broker or similar entity that may be providing services to the property or to other properties owned and/or managed by Customer. (d) This Agreement represents the entire agreement between the parties with respect to the subject matter contained herein and supercedes any and all other agreements, whether written or oral, that may exist between the parties. (e) The terms and conditions of this Agreement shall be governed, construed, interpreted and enforced in accordance with the domestic laws of the State of Michigan, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Michigan. Any and all actions concerning any dispute arising hereunder may be filed and maintained in the Circuit Court of Kent County, Michigan or the federal District Court for the Western District of Michigan. The parties specifically consent and submit to the jurisdiction and venue of such state or federal court, and irrevocably waive any objections either may have based on improper venue or forum non conveniens to the conducting of any proceeding in any such court. In the event of litigation, the non-prevailing party shall bear all related costs, including the prevailing party's reasonable attorneys' fees. (f) All written notifications required or permitted by this Agreement shall be by certified mail, return receipt requested, addressed to the relevant address on the reverse side. A written notice shall be deemed given upon receipt. (g) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be severed from and shall not affect the remainder of this Agreement; however, the parties shall amend this Agreement to give effect, to the maximum extent allowed, to the intent and meaning of the severed provision. (h) In the event the Company successfully enforces its rights against Customer hereunder, the Customer shall be required to pay the Company's attorneys' fees and court costs. (i) Company has the right to delegate, assign, and/or subcontract the performance of all or any portion of the Services to a third party. Customer may assign or delegate this Agreement provided that Customer causes the person to whom the real property is transferred or who obtains control of Customer to assume this Agreement and all of Customer's obligations hereunder (and provides such proof of assignment upon Company's request). (j) If a scheduled collection day falls on a legal holiday, the Company shall make the collection on the next business day. (k) In the event this Agreement is executed by a management company or other agent or representative ("Agent") acting on behalf of a property owner or other third party ("Principal"), the Agent and Principal shall both be deemed to be the "Customer", and both the Agent and Principal shall be jointly and severally liable for all liabilities, obligations and amounts due from the Customer under this Agreement. (l) The term "Waste Container(s)" means the Bench®, Waste Can, Trash Box or other receptacle of any kind provided by Company to Customer (including those described on the front side of this Agreement). (m) Customer authorizes Company to execute and file with whomever Company deems appropriate one or more Uniform Commercial Code financing statement and/or continuation statements, any amendments thereof and/or supplements thereto, and such other instruments as Company shall deem appropriate (collectively, the "Security Documents"), and to take all such other actions, as Company shall deem appropriate, in order to perfect, protect, preserve and maintain its rights in and to the Waste Containers; and at Company's request, Customer will execute any such Security Documents.