



PRIORITY waste

TERMS AND CONDITIONS-TEMPORARY DUMPSTER AGREEMENT

SERVICES: Customer grants to Priority Waste, hereafter (Company) the exclusive right to manage the collection and disposal of the Customer's non-hazardous solid waste materials, recyclables and/or construction materials and Company agrees to provide such services.

TERM: THE INITIAL TERM OF THIS AGREEMENT SHALL START ON THE DATE WHEN TEMPORARY CONTAINER IS DELIVERED TO CUSTOMER'S LOCATION AND CONTINUE FOR AS LONG AS CUSTOMER USES CONTAINER. ALL OTHER TERMS OF THIS AGREEMENT SHALL CONTINUE IN FULL FORCE AND EFFECT AFTER FINAL REMOVAL OF TEMPORARY CONTAINER.

PAYMENT: Customer shall pay Company for the services and equipment furnished by Company, or its contractor, at the rates provided in this Agreement within 15 days of Customer's receipt of Company's invoice. Customer shall pay all taxes, fees and other governmental charges assessed against or passed through to Company (other than income or real property taxes). Customer shall pay such fees as the Company may impose from time to time by notice to Customer, including by way of example only, late payment fees, administrative fees and environmental fees, with Company to determine the amounts of such fees in its discretion up to the maximum amount allowed by applicable law. Without limiting the foregoing, Customer shall also pay Company: (a) a fee of \$50 for each check submitted by Customer that is an insufficient funds check or is returned or dishonored; and (b) a fuel/environmental recovery fee in the amount shown on each of the Company's invoices, which amount Company may increase or decrease from time to time by showing the amount on the invoice. At any time after Company becomes concerned about Customer's creditworthiness or after Customer has made any late payment, Company may request, and if requested, Customer shall pay a deposit in an amount equal to one month's charges under as determined by the Company.

ATTORNEYS' FEES: If any litigation is commenced under this Agreement, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding.

WASTE MATERIALS: The Waste Materials shall not contain any hazardous materials, wastes or substances; toxic substances, wastes and pollutants; contaminants; infectious waste; medical wastes; or radioactive wastes (collectively, "Excluded Waste"), each as defined by applicable federal, state and local laws or regulations (collectively, "Applicable Laws"). Customer shall indemnify, defend and hold harmless Company and its contractors from and against any and all claims, damages, suits, penalties, fines, remediation costs, and liabilities (including court costs and reasonable attorneys' fees) (collectively, "Losses") resulting from the inclusion of Excluded Waste in Waste Materials.

TITLE: Company and or its contractors shall acquire title to Waste Materials when they are loaded into the Company's or Company's contractor's truck. Title to and liability for any Excluded Waste shall remain with Customer and shall at no time pass to Company or its contractors.

RATE AND ADJUSTMENTS: Company may, from time to time by notice to Customer, increase the rates provided in this Agreement to adjust for any increase due to; (a) a change in location of Customer or the

disposal facility used by Company or its contractor; (b) Disposal costs; (c) Company's actual costs due to changes in Applicable Governmental fees or taxes; (d) The average weight per cubic yard of Customer's Waste Materials. (e) The Consumer's Price Index. (f) Company or its contractor's change in costs due to changes in applicable laws. Customer also acknowledges that the Company is managing the listed services on the Customer's behalf to reduce the Customer's overall cost for these services and that on certain occasions, a cost reduction either cannot be obtained, or may be delayed or limited due to reasons which are beyond the Company's control. These could include, but are not limited to; a) Municipal Franchised Areas; b) Existing contracts between the customer and the current services provider, and/or c) special operational circumstances. Customer acknowledges that the Company may be required, other than as set forth above, to maintain or increase its rates accordingly, with Customer's consent, which may be evidenced verbally, in writing, electronically, or by the parties' actions and practices.

SERVICE CHANGES: The parties may change the type, size or amount of equipment, the type or frequency of service, and correspondingly the rates by agreement of the parties, which may be evidenced verbally, in writing, electronically, or by the parties' actions and practices. This Agreement shall apply to any change of location of Customer within the area in which Company provides its management services. Customer expressly waives their right to utilize any 3rd party waste management or waste broker to manage any aspect of Customer's waste and or recycling services during the term of this Agreement.

RESPONSIBILITY FOR EQUIPMENT ACCESS: Any equipment the Company or its contractors furnish shall remain the Company's or Company's contractor's property. Customer shall be liable for all loss or damage to such equipment (except for normal wear and tear and for loss or damage resulting from Company or its contractor's handling of the equipment). Customer shall use the equipment only for its proper and intended purpose and should reasonably avoid overloading the equipment (by weight or volume), move, or alter the equipment. Customer shall indemnify, defend and hold harmless Company from and against all Losses arising from any injury or death to persons or loss or damage to property (including the equipment) arising out of Customer's use, operation or possession of the equipment. Customer shall provide safe, unobstructed access to the equipment on the scheduled collection day. Company may charge an additional fee for any additional collection service required by Customer's failure to provide access.

DAMAGE TO PAVEMENT: Customer agrees that excluding any damage caused intentionally or due to gross negligence, Company, or the Company's contractor shall not be responsible for any damages to Customer's pavement, curbing or other driving surfaces resulting from Company or its contractor providing service(s) at Customer's location.

SUSPENSION: If any amount due from Customer is not paid within 30 days after the date of Company's invoice, Company may, without notice and without terminating this Agreement, suspend collecting and disposing of Waste Materials until Customer has paid such amount to Company. If Company service is suspended, Customer shall pay Company a service interruption fee in the amount of \$75.00 plus any deposits Company deems appropriate.

TERMINATION: In addition to its above suspension rights, Company may terminate this Agreement immediately by written notice to Customer if (a) any of the information contained in any credit application submitted to Company in connection with this Agreement is untrue or (b) Customer breaches this Agreement and fails to cure such breach within 10 days after Company gives Customer written notice of the breach. Company's failure to suspend service or terminate this Agreement when Customer fails to timely pay or otherwise breaches this Agreement shall not constitute a waiver of

Company's right to suspend service or terminate this Agreement for any future failure to pay or other breach.

PAYMENT UPON TERMINATION: If Customer terminates this Agreement before its expiration other than as a result of a breach by Company, or if Company terminates this Agreement as a result of a breach by Customer (including nonpayment), Customer shall pay Company an amount equal to Customer's most recent month's waste hauling and disposal charges/expenses or an average monthly charge based on the previous (12) twelve months whichever is greater, multiplied by the lesser of (a) six (6); or (b) the number of months remaining in the term. Customer acknowledges that in the event of such a termination, actual damages to Company would be uncertain and difficult to ascertain, such amount is the best, reasonable and objective estimate of the actual damages to Company, such amount does not constitute a penalty, and such amount is reasonable under the circumstances. Any amount payable under this paragraph shall be in addition to amounts already owing under this Agreement.

EXCUSED PERFORMANCE: Except for Customer's obligation to pay amounts due to Company, any failure or delay in performance due to contingencies beyond a party's reasonable control, including strikes, Riots, terrorist acts, compliance with Applicable Laws or governmental orders, fires and other acts of God, shall not constitute a breach of this Agreement.

MISCELLANEOUS: This Agreement sets forth the entire agreement of the parties and supersedes all prior agreements, whether written or oral, that may exist between the parties regarding the subject matter of this Agreement. Company shall have no confidentiality obligation with respect to any Waste Materials. This Agreement shall be binding upon and inure solely to the benefit of the parties and their permitted assigns. Customer agrees that it shall not engage in any business activity with any other waste/recycling company that employs a former employee of Company for a period of two years after the termination of this Agreement. If any provision of this Agreement shall be invalid, illegal or unenforceable, it shall be modified so as to be valid, legal and enforceable but so as most nearly to retain the intent of the parties. If such modification is not possible, such provision shall be severed from this Agreement. In either case, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected thereby. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Michigan. Customer consents to personal jurisdiction and venue in the courts for the County of Macomb, State of Michigan.