

MASTER SERVICE AGREEMENT

This Master Service Agreement (hereinafter, this "Agreement") is entered into this ____ day of ____, in the year ____, between the Clean Earth corporate entity or entities designated on the Waste Profile Sheet(s) attached hereto as Exhibit A (such entity, or each such entity, as the case may be, hereinafter referred to as "Contractor," but only with respect to the particular services to be performed by that entity pursuant to the Project Rate Sheet(s) attached hereto as Exhibit B) and ____ (hereinafter referred to as "Customer"), with an address at _____. Contractor and Customer are hereinafter referred to collectively as the "Parties."

BACKGROUND

A. Contractor is engaged in the business of providing services involving the reuse, transportation, storage, processing, treatment, and disposal of specific types of materials.

B. Customer wishes to obtain services from Contractor to manage certain material that has been generated by Customer or over which Customer otherwise has control.

C. The material to be provided by Customer to Contractor (hereinafter referred to, singularly and collectively, as the "Material") shall be described in a "Profile Sheet" or, if more than one type of Material, "Profile Sheets" attached to this Agreement as Exhibit A and any other documents attached thereto or referenced therein. The Material may or may not be classified as waste, and may consist of, without limitation, soil, rubble, dredge material, and petroleum-impacted media.

TERMS AND CONDITIONS

In consideration of the foregoing and the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor and Customer, intending to be legally bound, do hereby agree as follows:

1. Provision of Services

(a) Contractor agrees to provide services to Customer solely in accordance with and subject to the terms and conditions of this Agreement.

(b) The specific services to be provided by Contractor for Customer and the costs of those services are more particularly described in the Project Rate Sheet(s) attached hereto as Exhibit B, which has or have been prepared by Contractor and accepted by Customer.

(c) Contractor's obligation to provide the services described in the Project Rate Sheet(s) is expressly conditioned upon the following:

(i) Contractor's receipt from Customer of a complete and accurate Profile Sheet for each Material demonstrating that such Material (1) is the same Material as described in the Project Rate Sheet and (2) may be accepted or handled by Contractor based on the permits, authorizations and the rules and regulations to which the receiving facility may be subject; and

(ii) Customer's execution of the Project Rate Sheet confirming acceptance of all information contained therein, including the costs of the services described therein.

(d) The Project Rate Sheet(s) and the Profile Sheet(s), including any documents attached thereto or referenced therein, are hereby expressly incorporated in and made a part of this Agreement.

(e) Customer shall comply with all applicable federal, state and local laws, ordinances, rules, and regulations with respect to properly characterizing, labeling, packaging, and making the Material ready for transport, and shall complete all necessary paperwork, including manifests and bills of lading, as applicable, associated with the shipment of the Material to Contractor or as directed by Contractor.

(f) In the event of a conflict between the terms and conditions of this Agreement and the Project Rate Sheet(s) or Profile Sheet(s) attached hereto, the terms and conditions of this Agreement shall control unless the Parties expressly agree in writing to the contrary.

2. Customer Representations and Warranties

(a) Customer, through its undersigned representative, hereby represents and warrants that the generator information contained in the attached Project Rate Sheet(s) or Profile Sheet(s) is true and accurate to the best of Customer's knowledge, that characterization sampling of the Material has been performed in accordance with all applicable protocols and standards, and that analytical results from characterization sampling of the Material provided to Contractor are representative of the physical and chemical characteristics of the Material.

(b) Customer hereby represents and warrants that all Material delivered by Customer to Contractor shall be consistent with the descriptions contained in the Project Rate Sheet and the Profile Sheet for the Material.

(c) Customer hereby represents and warrants that it is under no legal restraint, order, agreement, directive, or other limitation or constraint that would (i) prevent Customer from using Contractor's services pursuant to this Agreement or (ii) restrict the labeling, packaging, and readying for transport, or the transporting, processing, treatment or other disposition of the Material.

(d) If applicable, Customer hereby authorizes the Agent/Broker designated on the Generator Authorization Letter attached hereto as Exhibit C to sign all paperwork pertaining to the Material and Customer agrees that it shall not terminate the authority of such Agent/Broker without providing Contractor with not less than ten (10) days prior written notice of such termination and, if applicable, designation of a substitute Agent/Broker.

3. Contractor Representations and Warranties

Contractor hereby represents and warrants that: (a) Contractor will manage the Material in a safe and workmanlike manner in compliance with all valid and applicable federal, state and local laws, ordinances, rules, regulations, permits and orders; and (b) Contractor will use facilities that have been issued permits, licenses, certificates or approvals required by valid and applicable laws, ordinances, rules and regulations necessary for the facilities to accept, store, process, treat and/or dispose of the Material. Except as otherwise expressly provided herein, Contractor makes no other representations and warranties and hereby disclaims any other representation or warranty, whether express or implied.

4. Inspection; Rejection of Material

(a) Contractor shall have the right, but not the obligation, to inspect, analyze and/or test the Material delivered or provided by Customer to Contractor; provided, however, that any failure of Contractor to perform any such inspection, analysis and/or testing, or to detect any Material which does not comply with the terms hereof despite such the same shall in no way relieve the Customer from its obligations hereunder.

(b) If the Material (i) does not meet the description and specifications set forth in the corresponding Profile Sheet or (ii) is otherwise not suitable for processing and/or treatment in the reasonable judgment of Contractor, for instance the material is malodorous, contains unacceptable amounts of debris such as, but not limited to, rebar, rubber, large stones, tires, and plastic sheeting, or has a high moisture content, is incompatible with other materials to be treated or processed, then the material shall be classified as "Non-Conforming Material" for purposes of this Agreement. Non-Conforming Material shall also include any material which may be conforming or acceptable to Contractor but which has been co-mingled with Non-Conforming Material. If Material is determined by Contractor to be Non-Conforming Material, Contractor may, at its option, (i) reject the Non-Conforming Material and return it to Customer at Customer's sole expense, (ii) require Customer to remove and dispose of the Non-Conforming Material at Customer's sole expense, or (iii) remove and dispose of the Non-Conforming Material in which case Customer shall pay Contractor's customary fees for such services with respect to the Non-Conforming Material.

(c) Customer shall promptly (but in no event later than thirty (30) days after the accrual thereof) reimburse Contractor and its transferee(s) for any losses, costs, expenses, fines, penalties, liabilities or damages (including reasonable attorneys' fees) that Contractor and/or its transferee(s) may incur as a result of receiving Non-Conforming Material from Customer, including costs of storing, transporting, retrieving, processing, treating, disposing, or otherwise handling or managing the Non-Conforming Material. As used herein, the term "transferee" shall mean any party receiving Material from Contractor, including Non-Conforming Material, in connection with Contractor's performance of this Agreement.

(d) Title to and liability for Non-Conforming Material shall remain with Customer at all times.

(e) Contractor reserves the right to reject or delay any shipment of Material from Customer in circumstances where the required paperwork for the shipment is incomplete, inaccurate or missing. Customer shall be responsible for all costs associated with storing, transporting or otherwise managing the rejected or delayed shipment of Material, including, but not limited to, storage and demurrage costs.

5. Indemnification

(a) Contractor hereby agrees to indemnify and hold Customer harmless from any losses, damages, suits, penalties, fines, costs, liabilities and expenses (including reasonable attorney's fees) arising out of any third party claim for (i) loss or damage to property or the environment, or (ii) injuries to or death of persons, including Customer's employees and agents, caused by or arising from Contractor's gross negligence, willful misconduct, or material violations of laws, ordinances, rules, regulations, orders or permits by Contractor in effect at the time that the services at issue are provided pursuant to this Agreement.

(b) Customer hereby agrees to indemnify and hold Contractor harmless from any losses, damages, suits, penalties, fines, costs, liabilities and expenses (including reasonable attorney's fees) arising out of any third party claim for (i) loss or damage to property or the environment, or (ii) injuries to or death of persons, including Contractor's employees and agents, caused by or arising from Customer's gross negligence, willful misconduct, material breach of this Agreement (including the representations and warranties contained therein), material violations of laws, ordinances, rules, regulations, orders or permits, or the delivery to Contractor of Material that does not conform to the description of the Material set forth in this Agreement.

(c) Neither party shall be liable to the other for special, consequential, incidental or punitive damages arising out of the non-performance of this Agreement or a breach hereof.

6. Limited License to Enter

When Customer is transporting Material to a facility operated by Contractor, Customer and its subcontractors shall have a limited license to enter that facility for the sole purpose of unloading the Material at such facility in the manner directed by Contractor. Customer shall comply, and ensure that its subcontractors comply, with all rules, regulations and requirements of the facility, as shall then be in effect. Contractor may reject Material, deny Customer or its subcontractors entry to the facility and/or terminate this Agreement in the event of the failure by Customer or its subcontractors to follow such rules, regulations and requirements.

7. Charges and Payments

(a) Customer agrees to pay for the services performed pursuant to this Agreement in accordance with the terms set forth herein (including, without limitation, the surcharges shown on the Project Rate Sheet, if and to the extent applicable), unless such terms are specifically modified in writing by both Parties.

(b) Charges for services performed pursuant to this Agreement shall be in accordance with the applicable Project Rate Sheet(s) included in Exhibit B.

(c) Payment for services performed pursuant to this Agreement shall be made within thirty (30) days of the date Contractor renders its invoice; provided, however, that Contractor, on a project basis, may require that payment be made immediately or within less than thirty (30) days following the rendering of Contractor's invoice. Failure to make payment within that applicable payment period shall cause interest to commence accruing at a rate of one and one-half percent (1 1/2%) per month from the due date of the invoice or the maximum interest rate permitted under applicable law, whichever is greater, until payment in full (plus interest) is made and, in addition, shall entitle Contractor to pursue any other remedies available to Contractor hereunder, or at law or in equity. Customer shall also be responsible for all costs of collection including, without limitation, court costs, attorney's fees and lien fees.

(d) Customer shall be solely responsible for all federal, state and local excise taxes, occupational taxes, sales taxes, use of service fees, environmental fees, recycling fees, local municipality fees, surcharges, costs of analytical services required by receiving facilities for Material, transportation cost increases, fuel surcharges, costs of handling Non-Conforming Material, and other similar taxes, fees and charges. Customer shall promptly reimburse the Contractor for any such costs, taxes, fees and surcharges, together with any interest and penalties assessed by any taxing authority. Customer shall also be solely responsible for any additional costs or charges caused by any delay (unless due to Contractor) including, without limitation, demurrage costs.

(e) Except as otherwise provided herein, Contractor may not increase the prices set forth in the Project Rate Sheet(s) contained in Exhibit B for a period of thirty (30) days after the effective date of the Project Rate Sheet(s). From and after thirty (30) days of the effective date of the Project Rate Sheet(s) (unless otherwise stated herein), the prices set forth in the Project Rate Sheet(s) shall be subject to change by Contractor, provided that Contractor gives Customer advance written or verbal notice of such change in prices. Customer shall have five (5) days from the date of notification by Contractor to accept or reject any cost or price increase tendered by Contractor. If Customer rejects the proposed price increase, Contractor shall have the right to terminate this Agreement or refuse to provide services to Customer pursuant to the Project Rate Sheet(s) that Contractor has sought to change.

(f) Except as otherwise set forth in the Project Rate Sheet(s), invoiced tonnage (if applicable) will be based on facility or Contractor's certified scales weight tickets and therefore may be more or less than the estimated tonnages set forth in the Project Rate Sheet(s).

(g) Services required beyond the scope of the services described in the Project Rate Sheet(s) contained in Exhibit B will be invoiced at the price mutually agreed to in writing by Contractor and Customer.

(h) The costs of obtaining special permits, licenses, authorizations or approvals to allow Contractor to handle particular Material will be charged to the Customer at the rate of cost, plus 10% unless otherwise specified in writing.

(i) At the request of Customer and if applicable, a Certificate of Recycling and/or Disposal (as such terms are used in the waste treatment industry) received by Contractor will be issued upon receipt by Contractor of full payment for the services rendered in connection with managing such Material. Customer shall be deemed to retain full and complete ownership of the Material until such time as Contractor is paid in full for its services pursuant to this Agreement.

8. Insurance

(a) Contractor hereby agrees to furnish Customer, upon request, with a Certificate of Insurance attesting to the existence of Worker's Compensation insurance coverage providing statutory benefits, Pollution Liability insurance and Comprehensive Automobile and Commercial General Liability insurance coverage with policy limits of not less than those set forth on the Certificate of Insurance, which is marked as a schedule in the Project Rate Sheet(s) contained in Exhibit B.

(b) In the event that Customer has not provided specific insurance requirements to Contractor for its review prior to Contractor submitting to Customer a Project Rate Sheet, and it is determined subsequent to acceptance of the Project Rate Sheet by Customer that insurance coverage is required that is in excess of the standard scope of coverage provided by Contractor, then Contractor may charge to Customer the costs of any additional premiums or surcharges imposed upon Contractor to obtain such additional insurance coverage. Customer shall pay the costs of such additional premiums or surcharges in advance of Contractor procuring said additional insurance coverage. In the event that Customer refuses to pay the costs of such additional premiums or surcharges in advance, then Contractor shall have no obligation to provide the additional insurance coverage requested by Customer and Customer shall have no claim against Contractor for its failure to procure the additional insurance coverage nor may Customer otherwise be permitted to declare Contractor in breach or default of this Agreement.

9. Arbitration

(a) Any dispute or controversy arising out of or relating to this Agreement, or any amendment or modification thereto, shall be determined by arbitration in the County of New York, State of New York, pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The Parties agree that the arbitrator shall have the power to award specific performance or injunctive relief to in any such arbitration. The costs of arbitration, including each Party's legal fees, shall be borne as directed by the arbitrator.

(b) The Parties consent to the jurisdiction of the Supreme Court of the State of New York for all purposes ancillary to arbitration, including the enforcement of the arbitration agreement and the proceedings, and the entry of a judgment on any award, and further consent that any process or notice of motion or other application to a court or to a judge thereof may be served by registered or certified mail.

10. Independent Contractor

Contractor is and shall perform under this Agreement as an independent contractor. The employees, agents, methods, equipment and facilities of Contractor shall at all times be under Contractor's exclusive direction and control. Nothing in this Agreement shall be construed or interpreted so as to cause Customer or any of its employees, agents, officers or directors to be deemed an agent for, joint venture of, employee of or partner of Contractor.

11. Assignment and Termination

Neither Party hereto may assign or delegate the performance of any portion of this Agreement without the prior express written consent of the other, which consent shall not be unreasonably withheld, delayed or conditioned; provided however, Contractor may assign this Agreement to an affiliate of Contractor or an entity under the control or common control of Contractor, without the written consent of Customer. In the event of the filing of a petition by or against the Customer under any bankruptcy, insolvency or reorganization laws, or the appointment of a receiver or trustee or an assignment for the benefit of creditors, then Contractor, at its option, and in addition to any other remedies at law, in equity or hereunder, may forthwith terminate this Agreement without further obligation or liability by Contractor to Customer.

12. Force Majeure

Contractor shall not be liable for any failure to provide services pursuant to this Agreement, including, but not limited to, removing, accepting, handling, processing, treating or disposing of Material, if such failure is caused directly or indirectly by acts of God; acts of war (including acts of terrorism); weather conditions; labor disputes or strikes; accidents; fires; explosions; floods; sabotage; fuel shortages; equipment malfunctions or failures; orders, filings, directives, laws, rules, regulations, ordinances, actions or inactions of any federal, state, or local governmental agency, department, court or body having jurisdiction over the activities of Customer or Contractor; changes in laws; inability to obtain the requisite licenses, approvals or permits; or any other matters beyond the reasonable control of Contractor.

13. Notices

(a) Except as otherwise specified in this Agreement, all notices pursuant to this Agreement shall be in writing, shall be directed to the attention of the respective representatives of Contractor or Customer listed below, and shall be deemed to have been sufficiently given (i) when delivered personally, (ii) when sent by verified facsimile (with confirmation copy sent by overnight courier), (iii) when sent by overnight courier, or (iv) when sent by certified mail, return receipt requested to the respective representatives of Contractor and Customer at the addresses listed below:

To Contractor: Clean Earth, Inc.
 334 South Warminster Road
 Hatboro, PA 19040
 Attn: Client Solutions Manager

To Customer: _____

(b) Notices pursuant to this Paragraph shall be deemed effective upon receipt.

(c) Either Party may designate a new representative to receive notices under this Agreement by notifying the other Party in writing of the name, address, telephone number and facsimile number of the new representative.

14. Entire Agreement

This Agreement, including the Exhibits attached hereto which are made a part hereof, supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to this matter. Any previous warranties, representations, agreements, understandings, covenants, discussions, drafts and writings are specifically replaced and superseded by the terms and conditions contained in this Agreement. Each Party further agrees and acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made



by any Party or anyone acting on behalf of any Party, which are not embodied herein and that no other agreement, statement, or promise not contained herein shall be valid or binding. It is specifically agreed between the Parties that no pre-printed language on any purchase order, work order or other similar instrument from either Party hereto shall alter, change, modify or amend the terms and conditions contained in this Agreement, and in particular, it is agreed that any such pre-printed language shall be deemed null and void. Any modification or amendment to this Agreement must be in writing and signed by both Parties.

15. Binding Agreement

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their heirs, executors, administrators, successors, and assigns. If any term, covenant or condition of this Agreement is determined to be illegal, invalid, void or unenforceable, such finding shall not affect the other provisions of this Agreement.

16. Clean Earth North Jersey

If and to the extent any Material is to be disposed of, processed or treated at the Clean Earth North Jersey facility located at 115 Jacobus Avenue, Kearny, New Jersey 07032, the following terms and provisions shall apply to Contractor's services with respect to such Material:

(a) All references in this Agreement to the term "material" or "Material" shall be deemed to refer to the term "waste" or "Waste," respectively.

(b) All references in this Agreement to the term "Profile Sheet" shall be deemed to refer to the term "Waste Material Profile Sheet."

(c) In the section of this Agreement entitled "Background," the last sentence in Paragraph C shall be deemed deleted.

(d) The following provisions shall be deemed substituted for those set forth in Paragraph 1, subparagraph (c)(i), of this Agreement:

"(i) Customer shall provide Contractor with a written, full, complete and accurate description of the Waste, including but not limited to, a complete description of all processes generating or involving the Waste, the proper name(s), hazard class(es), the EPA identification number(s) and all material safety data sheets relating thereto. Customer covenants, warrants and agrees that the description of the Waste in each Waste Material Profile Sheet is full, complete and accurate, including but not limited to, the process generating the waste, and the other information contained therein. Customer represents and warrants that all Waste delivered to Contractor, including each unit or container of Waste, shall conform to the description of the Waste furnished to Contractor. Where Contractor requires Customer to furnish a sample of the Waste to Contractor, Customer warrants and represents that the same is a true representative sample of the entire Waste stream, provided however, that the submission of the sample to Contractor for laboratory analysis does not relieve Customer of its obligations to provide a written description of the Waste nor Customer's warranty of such description of the Waste. It is expressly understood and agreed that any technical assistance or advice rendered by Contractor to Customer in reference to the efforts of Customer to properly classify Customer's Waste stream, shall be deemed gratis advice only. It shall remain Customer's responsibility at all times to comply with the environmental laws and to provide a proper description of the Waste."

(e) The following provisions shall be deemed substituted for those set forth in Paragraph 4, subparagraphs (b) through (d), of this Agreement:

"(b) In the event that the Contractor discovers that the Waste or any unit or container thereof does not conform to the description set forth in this Agreement, whether or not said Waste has previously been accepted by Contractor as conforming, Contractor shall notify Customer of the nonconformity and the Parties shall initiate any necessary measures for the safe handling, transportation and/or disposal of the Waste. If the Parties cannot agree upon the alternate methods for properly handling the Waste stream of Customer within twenty-four (24) hours from the time that Contractor has given written notice to Customer, Contractor may, in addition to any other remedies hereunder, or at law or in equity, return said Waste to Customer and Customer agrees to accept the same. For all nonconforming Waste, Customer agrees to pay or reimburse Contractor for all reasonable costs of handling, storage, administration, transportation and/or disposal costs incurred by Contractor on behalf of Customer.

(c) In addition, Customer shall reimburse Contractor for any damages incurred by Contractor, and any fines and penalties that Contractor may be required to pay any governmental agency or court due to Customer furnishing Waste that was not in compliance with the specifications set forth in the Waste Material Profile Sheet.

(d) At the time Contractor accepts the Waste from Customer for transportation, title, risk of loss and all other incidents of ownership of the Waste shall be transferred from Customer to Contractor. In the event that the Waste is discovered to be nonconforming, Contractor may revoke its acceptance of the Waste. Upon written notification of revocation of acceptance, title, risk or loss and all other incidents of ownership shall re-vest in Customer.”

(f) In the event of any inconsistency between the provisions of this Paragraph 16 and the other provisions of this Agreement, the provisions of this Paragraph 16 shall govern and be binding.

17. Miscellaneous

(a) In the event of a dispute under this Agreement, the prevailing party shall be entitled to recover reasonable fees and court costs, including attorney's fees, associated with interpreting or enforcing this Agreement. In the event Customer fails to pay Contractor all amounts due hereunder, Contractor shall be entitled to collect all reasonable collection costs or expenses, including reasonable attorneys' fees, other costs or handling fees for returned checks from Customer.

(b) The validity, interpretation and performance of this Agreement shall be construed in accordance with the laws of the State of New York.

(c) Customer's payment obligation for services, the representations and warranties and the indemnity obligations set forth herein made by each Party shall survive termination of this Agreement.

(d) This Agreement shall be construed as if both Parties equally participated in its drafting, and thus shall not be construed against the drafter.

(e) This Agreement may be executed in multiple, identical counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument.

(f) Telecopy signatures or pdf signatures transmitted by e-mail shall be deemed valid and binding to the same extent as the originals.

(g) The undersigned representatives of Contractor and Customer, respectively, certify that they are authorized to execute this Agreement on behalf of Contractor or Customer, as the case may be.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the day and year first above written.

CUSTOMER

By: _____

Name: _____

Title: _____

CONTRACTOR

By: _____

Name: _____

Title: _____