

TERMS AND CONDITIONS

1. TERM. The term of this Service Agreement (this "Agreement") shall be for ~~sixty (60)~~ ^{twelve (12)} months from the Effective Date, and shall be automatically renewed for ~~sixty (60)~~ ^{twelve (12)} months thereafter unless either party shall give written notice of termination, by Certified Mail, to the other party at least sixty (60) days but not more than one hundred eighty (180) days prior to the termination of the initial term or the then current renewal term.

2. SERVICES. IESI shall provide Customer with waste collection, transportation and disposal services for Customer's waste, refuse and/or recyclable materials. Customer grants to IESI the exclusive right to provide such services to Customer. Customer hereby agrees to grant IESI the right to enter upon its property to the extent necessary to perform the abovescribed services. Customer represents and warrants that it has no existing agreements with other companies or entities for the provision of such services, and hereby agrees to hold IESI harmless from any claims, losses or damages resulting from any actions regarding any preexisting contracts.

3. SERVICE FEES. Customer shall pay IESI monthly service fees in accordance with the "Schedule of Charges" set forth in this Agreement and the invoices delivered to Customer, as such amounts may be adjusted and additional charges assessed from time to time pursuant to section 4b below. Payment is due in full on the receipt of invoice. Customer shall pay IESI for additional services performed by IESI that are not specifically set forth in this Agreement, in accordance with the terms of this Agreement. A Customer's account is past due if it has not been paid within thirty (30) days from the invoice date. IESI may, at its sole discretion, assess a monthly finance charge not to exceed the maximum interest rate allowed by law on all past due accounts and charge administrative fees or other charges representing costs IESI incurs in connection with past due accounts. In the event that Customer fails to timely pay its invoice, IESI may terminate this Agreement or suspend services until the Customer's account has been paid in full.

4. RATE ADJUSTMENTS.

a. Change in Service. The parties agree that the type or frequency of service may be changed during the term of this Agreement without affecting the validity of this Agreement and that such change shall become a part of this Agreement. In the event Customer requests any additional services or a change in the type or frequency of service, the service fees charged by IESI will be adjusted and Customer agrees to pay the adjusted service fees. Upon agreement of the adjusted service fees, such modification shall become a part of this Agreement.

b. Rate Increases. Customer agrees that IESI may either proportionately increase the service fees hereunder or add additional surcharges to adjust for any increase to IESI in disposal, fuel and environmental costs; any increases in transportation costs due to changes in location of the disposal facility; for increases in the Consumer Price Index; increases in the average weight per container yard of the Customer's Waste Materials (IESI initial assumption is 1100 lbs.); Customer's Waste Material does not exceed 0.5 lbs. per cubic yard); increased costs due to uncontrollable circumstances, including without limitation, changes in local, state or federal laws or regulations, imposition of taxes, fees or other governmental charges assessed against or passed through to IESI (excluding income or real property taxes) and acts of God such as floods, fires, terrorist acts, etc. Payment of such increased service fees or additional surcharges shall not be withheld by the Customer. Increases in the service fees or additional surcharges for reasons other than set forth above requires the consent of the Customer which may be demonstrated verbally, in writing or by the actions and practices of the parties.

5. RELOCATION OF BUSINESS. In the event Customer relocates its business to another area serviced by IESI, Customer shall notify IESI and such relocation will not affect the validity of this Agreement, as long as IESI agrees to continue service to Customer.

6. WASTE MATERIALS. Customer represents and warrants that the materials placed in the Equipment shall be "Waste Material" as defined herein and shall contain no other substances. The term Waste Material as used in these Terms and Conditions shall mean solid waste generated by Customer excluding radioactive, volatile, highly flammable, explosive, biomedical, infectious, toxic or hazardous material. The term "hazardous material" shall include but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, or applicable state law. IESI shall acquire title to the Waste Material when it is loaded into IESI's trucks. Title to and liability for any waste excluded above shall remain with Customer and Customer expressly agrees to defend, indemnify and hold harmless IESI from and against any and all damages, penalties, fines and liabilities resulting from or arising out of such waste excluded above.

7. EQUIPMENT. Customer acknowledges and agrees that all Equipment furnished hereunder by IESI shall remain the property of IESI. The word "Equipment" as used herein shall mean all containers used for the storage of Waste Material including stationary compaction units, stationary baling units, Waste Material loading devices, tanks, tankers, and such other on-site devices as may be specified on the face of this Agreement. IESI reserves the right to substitute the Equipment for similar Equipment at any time during the term of this Agreement.

a. Customer Responsibility. Customer acknowledges that it has care, custody and control of the Equipment while at the Customer's location and accepts responsibility for all loss or damage to the Equipment (except for normal wear and tear or for loss or damage resulting from IESI's handling of the Equipment) and for its contents. Customer agrees not to overload, by weight or volume, move or alter the Equipment, and shall use the Equipment only for its proper and intended purpose. Customer agrees to indemnify, defend and hold harmless IESI against all claims, damages, suits, penalties, fines and liabilities for injury or death to persons or loss or damage to property arising out of Customer's use, operation or possession of the Equipment.

b. Access. Customer shall provide unobstructed and reasonable access to the Equipment on the scheduled collection day. If the Equipment is inaccessible so that the regularly scheduled pick up cannot be made, IESI will promptly notify the Customer and afford the Customer a reasonable opportunity to provide the required access; however, IESI reserves the right to charge an additional fee for any additional collection service required by Customer's failure to provide such access.

a. DRIVEWAYS AND PAVEMENT DAMAGE. Customer warrants that any right of way provided by Customer for IESI's Equipment location to the most convenient public way is sufficient to bear the weight of all of IESI's Equipment and vehicles reasonably required to perform the services herein contracted. IESI shall not be responsible for damage to any private pavement or accompanying sub-surface of any route reasonably necessary to perform the services herein contracted and Customer assumes all liabilities for damage to pavement or road surface.

9. BREACH AND DAMAGES.

a. Breach. Customer will be considered in breach of this Agreement if it: (1) fails to pay service fees as set forth in this Agreement; (2) attempts to terminate this Agreement without prior written notice as set forth in this Agreement; and/or (3) fails to comply with any of its obligations set forth in this Agreement. Customer shall provide IESI with written notice of any problem which it believes constitutes a failure by IESI to fully perform its obligations under this Agreement. IESI will be considered in breach of this Agreement if IESI does not cure the problem in ten (10) business days after receiving such notice. Where IESI determines, in its reasonable judgment, that the problem does not constitute a failure by IESI to perform its obligations, or where such problem is beyond IESI's reasonable control, IESI shall not be obligated to cure such problem and this Agreement shall remain in full force and effect. IESI shall not be liable under any circumstances for any special, incidental or consequential damages arising out of or in connection with the performance or non-performance of this Agreement.

b. Liquidated Damages. In the event Customer terminates this Agreement prior to its expiration other than as a result of a breach by IESI or IESI terminates this Agreement for Customer's breach, including nonpayment, Customer agrees to pay to IESI as liquidated damages a sum calculated as follows: (i) if the remaining term under this Agreement is six or more months, Customer shall pay an average of its three previous monthly charges multiplied by six; or (ii) if the remaining term under this Agreement is less than six months, Customer shall pay an average of its three previous monthly charges multiplied by the number of months remaining in the term. Customer acknowledges that in the event of an unauthorized termination of this Agreement, the anticipated loss to IESI would be difficult to calculate; however, the liquidated damages estimated in the amount set forth in the foregoing provision is reasonable and is not imposed as a penalty. In the event Customer fails to pay IESI all amounts which become due under this Agreement, or fails to perform its obligations hereunder, and IESI relies such matter to an attorney, Customer agrees to pay, in addition to the amount due, any and all costs incurred by IESI as a result of such action, including, to the extent permitted by law, reasonable attorneys' fees.

c. Waiver. The failure of IESI to exercise any right to terminate this Agreement and/or collect damages against Customer for any breach of this Agreement will not constitute a waiver of any of IESI's rights under this Agreement.

10. MISCELLANEOUS. (a) This Agreement shall be governed in all respects by the laws of the State of Texas, without giving effect to the conflict of laws rules thereof; (b) This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective subsidiaries, successors and assigns. IESI may assign its obligations and rights under this Agreement without the consent of Customer. Customer may not assign its obligations or rights under this Agreement without the prior written consent of IESI; (c) In the event IESI is successful in enforcing the terms and conditions of this Agreement against Customer, then the Customer shall pay IESI's reasonable attorney's fees, collection fees and costs; (d) Neither party hereto shall be liable for its failure to perform or delay in performance hereunder (other than an obligation to pay money) due to contingencies beyond its reasonable control including, but not limited to, strikes, riots, compliance with laws or governmental orders, inability to get to container, fires, and acts of God and such failure shall not constitute a default under this Agreement; (e) This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, whether written or oral, that may exist between the parties and if any one or more of the provisions contained in this Agreement is, for any reason, held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and all other provisions shall remain in full force and effect.

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4-14-08
date