RIGHT AWAY DISPOSAL
Terms and Conditions of Service
1. Service Rendered. Contractor shall collect and dispose of Customer’s waste/recyclable materials, garbage, trash, and other solid refuse (“waste material”) at the service location and times designated by this Service Agreement. “Waste Material” means all nonhazardous putrescible and non-putrescible solid waste and recyclable materials generated by the Customer or at Customer’s Service Address. Customer must place all waste into containers provided by Contractor. Contractor shall assess an extra yardage charge for all waste placed outside container or stacked above level full in container. Contractor is not obligated to accept any toxic, flammable, or other hazardous wastes placed in the container. In addition, Contractor is not required to furnish any services under this Service Agreement that violate any statute, ordinance or regulation.

2. Payments. Customer shall pay the Contractor on a monthly basis for the service and/or equipment furnished by the Contractor in accordance with the charges and rates provided for herein. Payment shall be made by the Customer to the Contractor within ten (10) days of the receipt of an invoice from the Contractor. The Contractor may impose and the Customer agrees to pay a late fee for all past due payments not to exceed the maximum rate for same allowed by applicable law. Amounts outstanding for more than thirty (30) days shall accrue an immediately payable service charge at the rate of eighteen percent (18%) per annum commencing with the date of receipt of the original invoice until the date of payment in full. If payment is not made when due the Contractor retains the right to suspend service until the past due balance is paid in full. In the event that service is suspended in excess of fifteen (15) days the Contractor may terminate this agreement without notice to the Customer, recover any equipment on the Customer’s premises, and recover the liquidated damages.

3. Rate Adjustments. Contractor reserves the right to increase the Customer’s rate and the Customer agrees to pay the increased rate provided that such increased rate is based upon the Contractor’s increased costs due to increases in disposal facility costs, landfill costs (whether due to recycling programs or otherwise), fuel costs or surcharges, increases in transportation costs due to a change in the location of such disposal facilities or due to increases in fees or taxes imposed by local provincial or federal governments. The Contractor may also increase the Customer’s rate from time to time for reasons other than those described above. Increases in charges for reasons other than as printed above require the consent of Customer which maybe evidenced verbally, in writing or by actions and practices of the parties. For purposes of the agreement, "landfill costs" means and includes all costs of disposal, however and whenever incurred by the Contractor in respect of the disposal of waste collected from Customer. Without limiting the generality of the foregoing, disposal costs shall include the costs of disposal incurred by the Contractor at a compost facility, transfer facility, recycling facility, incinerator processing facility or landfill site.

4. Equipment. The Equipment shall always be the sole and exclusive property of the Contractor, which reserves the right to assign or encumber the same; however, Customer shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss or damage to the equipment and for its contents while at Customer’s location. Customer shall not overload, move or alter the equipment. Customer shall have no rights therein except for the right to properly use the same in its business operations pursuant to the terms and conditions of this Agreement. The Equipment shall remain personal property even when it is installed in or attached to real property and Contractor may, but is not required to, display notice of its ownership by affixing labels, plates, etc. thereto. Customer shall not remove the Equipment from the address set forth above nor part with possession or control thereof without Contractor’s prior written approval, nor permit the removal of any plate or marking put on the Equipment by Contractor, nor permit levies, liens or encumbrances to attach to the Equipment. Customer shall cause the Equipment to be used/operated in accordance with all applicable manufacturer’s instructions by competent personnel duly trained and instructed in its proper use and by no other persons. If Equipment is inaccessible, Customer will be notified, and any additional collection service or attempt to provide such service shall be charged as an extra pick-up.

5. Means of Access. Customer warrants that any driveway, parking lot, or other area provided or designated for use by Customer for Contractor’s services is adequate for use by the Contractor’s equipment and vehicles. Contractor shall not be responsible for damage to any fence, barricade or other structure, which encloses containers, or objects, which are located within ten (10) feet of containers. Contractor may, but shall not be required to, carry keys or gate openers to access Customer’s containers, but shall not be responsible for gates left open, or damage to or loss of key or gate openers. Customer acknowledges that Contractor shall not be liable for any damages to pavement, curbing or driving surface resulting from its trucks servicing an agreed upon area. Customer shall allow access to Contractor’s equipment in a safe and well maintained condition.

6. Waste Material and Liability. Customer warrants that the waste material to be disposed of by Customer pursuant to this Agreement is solid waste generated by Customer, excluding radioactive, volatile, flammable, explosive, toxic, hazardous material, potentially infectious or Special Waste not approved in writing by Contractor (collectively, “Excluded Materials”). 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, 1976, as amended, or applicable state law. Contractor shall acquire title to the
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7. Special Waste Material. Waste Materials may include Special Waste, such as industrial process wastes, asbestos containing material, petroleum contaminated soils, treated/decharacterized wastes and demolition debris, provided that Customer has completed a Waste Profile for such Special Waste which has been approved by Contractor in writing.

8. Taxes and Fees. Customer shall be liable for all taxes, fees or other charges imposed by federal, state or local laws and regulations upon the collection, transportation or disposal of Customer’s waste materials or the services performed hereunder, and Contractor shall have the right to increase their service fee accordingly.

9. Changes. Changes in the frequency of collection service, schedule, number, capacity and/or type of equipment may be agreed to orally, in writing, or by the actions and practices of the parties; provided that Customer shall not be entitled to alter the service requirements hereunder for reason of contracting with another company for services at the Service Address. In the event Customer relocates during any Term and Customer’s new service address is located within the area serviced by Contractor, this Agreement shall be applicable to and remain in full force and effect at such new service address location.

10. Indemnity. Customer acknowledges that it has care, custody, control and management of the Equipment owned by Contractor and hereby accepts full responsibility for the Equipment and its proper use, except when agents or employees of Contractor are physically handling it. Customer agrees to pay Contractor for the cost of repairs to the equipment. Therefore, Customer expressly agrees to defend, indemnify, protect and hold harmless Contractor from and against any and all claims for loss or damage to property, or injury or death of person or persons resulting from or arising in any manner out of the use, operation or possession of the Equipment by Customer, its agents, or employees. Customer expressly agrees to defend, indemnify, protect and hold harmless Contractor from and against any and all claims for loss of production, revenue or expense of replacement equipment.

11. Contractor’s Rented or Leased Equipment. Customer agrees to provide Contractor with Coverage Insurance to include special form coverage (all risk) for equipment rented, leased, borrowed or provided by Contractor in conjunction with this Agreement, in amounts to insure for the full replacement cost of that equipment. (Property coverage) Customer shall furnish Contractor within two (2) days prior to the scheduled delivery of the Equipment, a satisfactory certificate of insurance provided by a company approved by Contractor which is in full force and effect. Such insurance shall not by its terms be canceled and/or lapse before Contractor is notified thereof in writing thirty (30) days prior to its cancellation or lapse. In the event such cancellation and/or lapse is threatened by reason of nonpayment of premium, Contractor may pay the charge of Customer’s behalf and charge the Customer accordingly. Contractor shall be shown as additional insured on a primary and non-contributing basis on the foregoing policies to the extent that its interests may appear and any proceeds payable pursuant to those policies shall be paid to all named insurers as their interests may appear. It is further understood that the above noted policy coverage is a primary requirement of this contract and Customer warrants that it shall not take delivery of the Equipment until such policies are in full force and effect. The failure of Customer to maintain the insurance required by this Paragraph shall be deemed a material breach of this Agreement giving Contractor the right to terminate this Agreement.

Damage Waiver will be charged until an acceptable Certificate of Insurance is received in Contractors Office showing leased Contractors Equipment coverage with an acceptable limit. A Damage Waiver will be charged on all Leased units exceeding the limit shown on the Certificate. Customer agrees to accept Damage Waiver charges in the amount of $50.00 per month for Compactors; $40.00 per month for Roll-off Containers; $28.00 per month for Front-load Containers.

12. Binding Effect. This Agreement is binding on the parties and their respective heirs, successors and assigns, subject to the terms and conditions contained herein.

13. Assignment. This Agreement may be assigned by Contractor without Customer’s consent, in which event the assignee shall have all legal rights, remedies and obligations of Contractor hereunder.

14. Right of First Refusal. If, during the term of this Agreement, Customer receives a bonafide offer from a third party to furnish equipment or services that are then offered by Contractor (including a third-party offer to furnish equipment or services following termination of this Agreement), and such equipment or services are outside the scope of this Agreement, Customer shall send written notice via certified mail including a copy of the complete offer/proposal from third party to Contractor. For a period of 10 days from its receipt of the notice, Contractor shall have the right, at its sole discretion, to match the terms of the offer.
discretion, to agree to furnish all or any part of the subject equipment or services to Customer on the same terms and conditions as the third-party's offer.

15. Excused Performance. Neither party hereto shall be liable for its failure to perform or delay in performance hereunder (other than Customer’s payment obligation hereunder) due to contingencies beyond its reasonable control including, but not limited to strikes, riots, fires, and acts of God.

16. Customer Complaints. Should the Customer be dissatisfied with the Contractor's service at any time during the term of this Agreement, the Customer promises to notify the Contractor of any dissatisfaction by certified mail. Once notified, the Contractor will correct any deficiencies attributable to the Contractor with 72 hours of the notice if it is reasonably possible to do so. Time is of the essence.

17. Governing Law. This Agreement shall be governed by the laws of the State of Arizona. Any action relating to or arising out of this Agreement shall be maintained in Maricopa County, Arizona.

18. Attorney’s Fees. In the event of a breach (which includes, but is not limited to, a customer’s attempt to terminate or failure to pay) of this Agreement by either party, the breaching party shall pay all reasonable attorney’s fees, fees associated with service of process, collection fees and costs of the other party to any action brought to enforce this Agreement.

19. Non-waiver. Failure of either party to exercise any of their rights under this contract shall waive their right to exercise the same on another occasion. Also, the invalidity of all or any part of any provision of this Agreement shall not render invalid the remainder of this Agreement or the remainder of such provision. In any provisions of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as in enforceable.

20. Modifications and Amendments. This Agreement shall not be altered, amended or modified except by a writing signed by authorized representatives of both parties or as expressly set forth herein.

21. Entire Agreement. This Agreement constitutes and embodies the full and complete understanding, agreement and expectation of the parties and supersedes all prior understandings, agreement or statement or expectations, whether oral or in writing, and no representations, warranties or inducements have been made by any of the parties and their successors and assigns. No course of performance, purchase orders or agreements purporting to amend, supplement or explain this Agreement shall be effective unless in writing and signed by authorized representative of both parties. The representations, warranties and indemnification contained herein shall survive the termination of this Agreement.

22. Credit or Debit Card Usage. Customer authorizes Contractor to charge Customer’s Credit or Debit Card. Any disputes, cancellation of payment of failure to pay will incur additional fees to be determined by Contractor.