



12 month
~~CLEAN-UP AGREEMENT~~

Contractor:

12-month Drop & Hook Grapple Truck

Customer Status: ☐ New Customer ☐ Existing-New Contract ☐ Existing-Contract Renewal ☐ Price Change ☐ Service Change
Service Type: ☐ Clean-Up Agreement ☐ Cage ☐ Roll Off

Contract Customer / Invoice to: _____ Customer Account number: _____

Customer Name: _____ FEIN No.: _____

Address: _____

City and State: _____ Zip Code: _____

County: _____ Fax Number: _____

Phone Number: _____

E-Mail Address: _____

Check One: Proprietor ☐ Partnership ☐ Corp ☐ State of Incorporation: _____

Service: Trailer transportation and processing, recycling and/or disposal of Customer's used tires ("Used Tires").

Service Location ("Service Location"):

Location Name: _____

Address: _____

City and State: _____ Zip Code: _____

County: _____

Phone Number: _____ Fax Number: _____

E-Mail Address: _____

Service Contact: _____ Title: _____

Effective Date of Service: _____

Service Fees for Used Tires Collected Using Trucks and Other Vehicles ("Hauled Tires"):

Passenger Tires:	\$ _____ per tire	Passenger Tire w/ Rim:	\$ _____ per tire
Light Truck Tires:	\$ _____ per tire	Light Truck Tires w/ Rim:	\$ _____ per tire
Large Truck Tires:	\$ _____ per tire	Large Truck Tire w/ Rim:	\$ _____ per tire
Super single/duplex Tires:	\$ _____ per tire	Other: _____	\$ _____ per tire
		Other: _____	\$ _____ per tire
		Other: _____	\$ _____ per tire
Agricultural Tires:		Minimum Fee:	\$ _____ per visit
Small: 0-75 lbs.	\$ _____ per tire	Current Diesel Fuel Surcharge:	_____ % of billed revenues or charges
Medium: 76-150 lbs.	\$ _____ per tire		
Large: 151-225 lbs.	\$ _____ per tire		
X-large: 225-300 lbs.	\$ _____ per tire		
300+ lbs.	\$ _____ per TON		

Service Fees for Used Tires Collected in Over-the-Road Bulk Containers ("Drop-and-Hook Tires"):

Container Drop Fee (if applicable): \$ _____

Container Rent (if applicable): \$ _____

Cost Per Load or Ton: \$ _____ per (check one): ☐ load ☐ ton

~~Overweight Charge (exceeding 15 tons per load):~~ Environmental Fee _____ per (check one): ☐ load ☐ ton

Rim Removal Fee: \$ _____ per tire

Current Diesel Fuel Surcharge: (adjusted weekly) _____ % percentage of billed revenue or charges

Minimum Billing Per Load (if applicable): _____ tons

Billing Terms: ☐ COD ☐ Credit **Net 30 day credit terms approved**

Special Conditions: _____ (Customer to initial below)

1. _____

2. _____

3. _____

Customer Signature: _____ Date: _____

(Authorized Representative)

Print Customer Name and Title: _____

Contractor Signature: _____ Date: _____

(Authorized Representative)

Print Contractor Name and Title: _____

**GENERAL CONDITIONS OF
CLEAN-UP AGREEMENT**

Contractor named above or any of its applicable subsidiaries or affiliates performing hereunder ("Contractor") hereby warrants to Customer that all Used Tires collected from Customer shall be recycled, including reuse, in accordance with the used tire rules enacted by governing local, state and federal regulatory agencies.

1. **Services/Term.** Contractor will provide the transportation, processing, recycling, resale, and/or disposal of Used Tires from the Service Location (collectively, "Services"). The term of this Agreement will last until Contractor has removed all of the Customer's Used Tires from the Service Location. Contractor will remove the Used Tires from the Service Location using such combinations of over-the-road bulk trailers for drop-and-hook pickups and conventional pickups using trucks and other vehicles as it may determine in its reasonable discretion. The Contractor will complete the removal of Customer's Used Tires from the Service Location within a commercially reasonable period of time after the date when this Agreement is signed by both parties.

2. **Exclusivity.** In connection with this Agreement, the parties agree that each will not, directly or indirectly, interfere with, circumvent or attempt to circumvent, avoid, by-pass, hinder, evade, or obviate (a) one another, (b) each other's interests in or to the benefits of this Agreement, and/or (c) the interests or relationships that either party has with any other person, corporation, or other entity including, without limitation, customers, manufacturers, producers, sellers, buyers, vendors, brokers, dealers, distributors, refiners, and/or shippers to affect, change, increase, decrease, and/or avoid, directly or indirectly, the obligations of one another under this Agreement.

3. **Fees, Charges and Payment.** Customer shall pay Contractor all amounts due and owing hereunder at Contractor's address on page 1 of this Agreement. ~~For Drop and Hook Tires, Customer shall prepay any Trailer Drop Fee and the cost of the first load when the first empty trailer is delivered; and, thereafter, Customer shall prepay Contractor for each load of Drop and Hook Tires when the replacement trailer is delivered unless credit is extended and approved, in which case payment shall be due within fifteen (15) days of invoice. Also for Drop and Hook Tires, the Rim Removal Fee shall be charged for each and every Used Tire that has not been derimmed.~~ For Hauled Tires, ~~Contractor shall~~ **Customer shall** pay Contractor for Used Tires collected at the time Service are rendered unless credit is extended and approved, in which case payment shall be due within ~~fifteen (15)~~ **thirty (30)** days of invoice. For both Drop-and-Hook and Hauled Tires, Contractor has the right, in its sole discretion, to pass through to Customer any and all environmental cost recovery charges, environmental compliance charges or other similar charges related to upgrading or maintaining Contractor's facilities, including, without limitation, such charges that Contractor incurs in order to operate any or all of its facilities at operating standards which are in excess of what may be required by applicable federal, state or local environmental laws or regulations, and interest shall accrue and be charged on all past due amounts at the rate of one and one-half percent (1.5%) per month until paid, and Customer shall pay all costs and expenses incurred by Contractor in collecting any past due amounts, including, without limitation, reasonable attorneys' fees. ~~If payment is not made when due, or if Customer otherwise breaches the terms of this Agreement and fails to cure the same within five (5) days of written notice of such breach, Contractor may remove any equipment on Customer's premises, suspend the provision of Services and/or terminate this Agreement upon written notice to Customer, in which event Contractor shall be entitled to recover all amounts then due and, in the event of termination, the liquidated damages described above.~~

4. ~~**Fuel Surcharge.** Contractor may impose a fuel surcharge in the event the cost of diesel fuel increases at any time, or from time to time, during the term. The fuel surcharge shall be calculated based on increases in the cost of diesel fuel as published by the Energy Information Administration of the US Department of Energy (www.eia.doe.gov) ("EIA") as determined by Contractor at any time, or from time to time, during the term over a base cost of \$1.30 per gallon (the "Fuel Surcharge Percentage"). The resulting Fuel Charge Percentage shall be multiplied by the aggregate of Customer's billed Services Fees for Used Tires Collected Using Trucks and Other Vehicles and Service Fees for Used Tires Collected in the Over-the-Road Bulk Containers (collectively, "Service Fees") and other charges for the period determined by Contractor in order to determine the amount of such fuel surcharge. The fuel surcharge as of the date of execution of this Agreement shall be the percentage set forth on page 1 of this Agreement, and may be increased or decreased at any time, or from time to time, by the Contractor as necessary and appropriate.~~

5. **Governmental Taxes, Fees and Charges.** Customer shall be responsible for any and all taxes, fees or other charges imposed by local, state or federal laws and/or regulations upon the collection, transportation, processing, recycling and/or disposal of Customer's Used Tires and will indemnify and reimburse Contractor for any such taxes, fees, or charges paid by Contractor.

6. **Equipment.** ~~The word "equipment" as used in these General Conditions shall mean over-the-road bulk trailers provided by Contractor to Customer for the storage and transportation of Used Tires. All equipment shall remain the property of Contractor, and Customer shall have no right, title or interest in such equipment. Contractor shall have the absolute right to remove or replace any and all equipment at any time, and Customer shall be obligated to eliminate any obstruction that might hinder Contractor in removing or replacing the equipment. Customer shall provide a stable, paved parking space for the equipment, and shall not overload, move or alter the equipment, or use the equipment for purposes other than the storage of Used Tires to be collected by Contractor. Customer shall be responsible for the equipment's safekeeping, and shall be liable to Contractor for all loss and/or damage to the equipment while in Customer's possession (including fire and theft) except for reasonable wear and tear. At the time of collection, Contractor shall have clear, unimpeded access to the equipment. If the equipment is blocked so as to delay or prohibit collection, any additional collection cost shall be classified as an extra pick-up and charged to Customer's account. Customer agrees to carry insurance with sound and reputable insurers against fire, theft and other hazards, in such forms and in such amounts so that the value of the equipment located on Customer's premises shall at all times be covered from all such losses and risk and as Contractor may reasonably require, for the benefit of Customer and Contractor. Upon request, Customer shall provide Contractor with an insurance certificate evidencing the foregoing coverage. Customer shall not sell, lease, lend, move, transfer, encumber or pledge any equipment located on Customer's premises or allow any third parties to move or encumber the equipment located on Customer's premises. Customer shall give its secured lenders notice that Customer does not have an ownership interest in the equipment.~~

7. **Used Tires.** ~~Customer warrants to Contractor that all Used Tires delivered by it hereunder shall not have been subject to any safety recall, whether official or unofficial, and not otherwise subject to a 'destroy only' obligation.~~ Customer also warrants that the Used Tires delivered to Contractor shall be in as dry a condition as possible (~~no more than 10 milliliters of water in each~~) and shall be free of oil, petroleum and any other hazardous or toxic wastes as defined by local, state or federal laws and/or regulations. It is understood and agreed that Customer shall not deliver to Contractor any split or chopped tires, ~~solid rubber tires~~, baled tires, tires containing a heavy accumulation of dirt, ~~or tires exceeding 54 inches in height or 16 inches in width~~ or any waste other than Used Tires (collectively, "Unacceptable Waste"). Customer further agrees that if any Unacceptable Waste is delivered by Customer, Contractor may, at its election, (i) return such Unacceptable Waste to Customer, or (ii) charge a supplemental fee to Customer for special handling and/or disposal of such Unacceptable Waste.

8. **Title.** **Title to the Used Tires shall pass to Contractor** upon the earlier to occur of the (i) payment of Contractor's Service Fees and other charges due for such Used Tires, or (ii) removal of such Used Tires by Contractor from Customer's premises. If Customer fails to pay Contractor's Service Fees and/or other charges, Contractor, at its option, may unload and/or return Customer's Used Tires, in which event Customer shall remain liable to Contractor for 100% of the Service Fees and other charges due for such Used Tires. Notwithstanding the foregoing, title to and liability for Unacceptable Waste shall always remain with Customer.

Customer initials _____
Date _____

9. **Provision of Services.** IN NO EVENT SHALL CONTRACTOR BE LIABLE UNDER THIS AGREEMENT TO CUSTOMER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, LIQUIDATED, OR OTHER SIMILAR DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR BUSINESS INTERRUPTION, LOSS OF USE, REVENUE OR PROFIT, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT THE CONTRACTOR WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CONTRACTOR'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID OR PAYABLE TO CONTRACTOR PURSUANT TO THIS AGREEMENT. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF CUSTOMER'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE. THIS SECTION 9 SETS FORTH CONTRACTOR'S SOLE LIABILITY AND ENTIRE OBLIGATION AND CUSTOMER'S EXCLUSIVE REMEDY FOR ANY ACTION THAT IS BROUGHT AGAINST CONTRACTOR PURSUANT TO OR IN CONNECTION WITH THIS AGREEMENT.

10. **Indemnity and Related Provisions.** Customer agrees to ~~pay, indemnify, defend, and~~ hold harmless Contractor and its employees, agents, and representatives from and against any and all claims, causes of actions, controversies, demands, damages, losses, costs, fines and/or liabilities (collectively, "Causes of Action") relating to and/or arising out of (1) the operation, use, or possession of the equipment by Customer, (2) each and every deficiency, defect, characteristic, and/or other condition of Customer's property and/or Used Tires, including the delivery of Unacceptable Waste, (3) Customer's breach or nonperformance of any covenant, provision, representation or warranty made by Customer hereunder, (4) Customer's activities in connection with this Agreement or the Services, and (5) Customer's violation of any laws or regulations, save and except for Causes of Action resulting from Contractor's willful misconduct or grossly negligent conduct. This provision applies to and includes, without limitation, claims and causes of action for death, personal injury, and/or damage to property or the environment. This indemnification specifically includes any injury to Customer's employees that may result from the employee's handling or loading of Used Tires.

11. **Insurance.** In addition to Customer's obligations under Section 6 hereof, Customer shall maintain insurance in types and amounts appropriate for similarly situated persons. Without limiting the foregoing, Customer shall carry insurance adequate to cover all potential liabilities related to its business and its indemnification obligations under this Agreement.

12. **Right to Compete.** Customer grants Contractor the right to compete with any offer which Customer receives (or intends to make) relating to the provision of Used Tire collection, transportation, processing, recycling, resale and/or disposal services upon the termination of this Agreement, and agrees to give Contractor written notice of any such offer and a reasonable opportunity to respond to it. If Contractor agrees to provide services on the same terms as those set forth in the offer, Customer shall contract with Contractor for such services.

~~13. **Selling Used Tires.** Customer recognizes the value to the Contractor for those Used Tires that can be culled and sold as a used tire. The parties further acknowledge and agree that the pricing of the Service Fees set forth in this Agreement is premised upon no theft or diversion of Used Tires from the locations. Customer shall implement procedures to ensure that individuals or businesses do not to take, purchase, or damage such good Used Tires from the Customer's locations. Customer shall take precautions to keep Used Tires secure and contained to eliminate the risk of tire theft or damage. If such theft occurs, Customer shall provide Contractor access to its loss prevention department and cooperate with all investigations and possible prosecutions of such theft perpetrators. If such theft continues, Contractor, at its sole discretion, may increase Service Fees for the Service Location.~~

14. **Force Majeure.** Except for their respective obligations to pay any sums of money due hereunder, each party hereto shall be excused for any delay or failure in the performance of their respective obligations hereunder, and shall not be liable for failure to perform or considered in default hereunder, if and to the extent that such delay or failure is caused by occurrences beyond such party's reasonable control and is not caused by such party, including, but not limited to, governmental laws or regulations, strikes or other labor disputes, civil commotion, sabotage, acts of terrorism, war, fire, casualty, flood, earthquake, explosion, weather, or acts of God.

15. **Notice.** Any notice to be given hereunder shall be in writing and shall be delivered by hand, certified mail or overnight courier to the respective party at the address set forth on the first page of this Agreement or such other address as either party shall designate by written notice to the other party. Any such notice shall be deemed effectively served as of the date of delivery unless delivery is refused or cannot be made, in which event notice shall be deemed given upon mailing.

16. **Waiver.** The failure of Contractor or Customer to enforce, at any time or for any period of time, any one or more of the provisions of this Agreement shall not be construed to be, and shall not be, a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision; provided, however, that final payment to Contractor constitutes a full and final release of any claims that Customer may have against Contractor.

17. **Severability.** If any provision of this Agreement is determined to be illegal or unenforceable, such provision shall be deemed amended to the extent necessary to conform to applicable law, or, if it cannot be so amended without materially altering the intention of the parties, it shall be deemed stricken and the remainder of this Agreement shall remain in full force and effect.

State of Wisconsin

18. **Governing Law & Venue.** This Agreement shall be governed by and construed in accordance with the laws of the ~~Commonwealth of Pennsylvania~~ without regard to conflict of laws principles, and any suit or cause of action brought to enforce the terms of this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in ~~Pittsburgh, Pennsylvania.~~ **Sauk County, Wisconsin.**

19. **General Provisions.** This Agreement (a) constitutes the entire contract between the parties with respect to the Services contemplated hereunder, (b) may only be changed, modified or amended by a writing signed by both parties hereto, and (c) shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The representations, warranties and indemnifications contained herein shall survive the termination of this Agreement. If any conflict or differences exist in this Agreement between items that are printed and those that are typed or written, the typed or written language shall govern. Each party agrees, represents and warrants to the other that it has not made, and makes no statements, representations and/or warranties regarding this Agreement or the Services that are not contained in this Agreement, and neither party has relied on any fact, statement, representation, and/or warranty that is not contained in this Agreement. Each party hereby represents and warrants that the execution and performance of this Agreement have been duly authorized by such party and that this Agreement is a valid and binding obligation of such party, enforceable in accordance with its terms. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall be deemed to be one and the same instrument. A facsimile or pdf signature binds the same as an original.

Customer initials _____

Date _____