



CANYON PIT DISPOSAL AGREEMENT

_____ ("Customer") enters into this Canyon Pit Disposal Agreement (this "Agreement") with Northwest Cascade, Inc., on behalf of itself and its subsidiaries and affiliates ("NWC"). In consideration of the mutual covenants, terms, and conditions herein contained, the parties agree as follows:

1. SCOPE

1.1. Services. Customer desires to place fill material at NWC's Canyon Rim Estates pit facility located at 7200 60th Ave Ct E, Puyallup, WA 98373 (the "Facility").

1.2. Fill Material. Customer shall not transport any material to the Facility other than the material from the site listed below ("Fill Material") unless transport of such other material is authorized pursuant to this Agreement or a separate Canyon Pit Disposal Agreement. The following information describes the source of the Fill Material (the "Site") being placed by Customer at the Facility:

Property Owner: _____

Material Description: _____

1.3. Rate. Disposal of "dry" Fill Material will be charged at a rate of **\$7.50** per cubic yard. Disposal of "wet" Fill Material will be charged at a rate of **\$12.50** per cubic yard. Fill Material will be classified as wet or dry, in the sole discretion of NWC, at the time of dumping. Cubic yardage will be calculated per truck at the following rate:

- 5 CY Dump (2 axles) – 7 Yards
- Solo Dump (up to 5 axles) – 12 Yards
- Super Solos (over 5 axles) – 24 yards
- Dump with Pup Trailer – 24 Yards
- Side Dump – 24 Yards

There shall be no off-set or discount for partial loads. The rates represented above are valid only for Fill Material from the Site and expire on 3-31-2021. Rates above do not include refuse tax. Customer is responsible for all applicable taxes, including refuse tax (currently 3.6%), which will be invoiced by NWC each month.

1.4. Invoicing and Term. NWC will invoice Customer monthly. Customer agrees to pay NWC the amounts set forth in any invoice, including applicable taxes, within thirty-five (35) days after receipt. Any outstanding invoice will be charged interest at 1% per annum.

2. FILL MATERIAL INSPECTION AND PLACEMENT

2.1. Inspection. Prior to dumping at the Facility, Customer shall check-in at the NWC scale-house. All loads will be subject to inspection by NWC personnel prior to placement of the Fill Material and no Fill Material will be unloaded without approval. Upon inspection, the NWC employee will note the quantity and determine if the Fill Material is wet or dry for invoicing purposes. Customer's driver must sign-off on this notation prior to dumping. NWC reserves the right to reject any Fill Material that NWC, in its sole discretion, determines to be contaminated, in breach of the warranties herein, or nonconforming for any other reason.

2.2. Placement. Loads of Fill Material shall be placed only in the fill area designated by NWC, during approved hours of operation, and in accordance with approved procedures.

2.3. Operating Hours. The Facility's normal operating hours are Monday–Friday, 7:30 a.m.–4:30 p.m., subject to change without notice. The gate closes promptly at 4:30 p.m.

2.4. Customer Compliance. Customer must use wheel wash prior to exiting the Facility. Customer shall be responsible for compliance with all applicable laws, DOT regulations, and all applicable safety rules at the Facility.

3. FILL MATERIAL ACCEPTANCE TERMS AND CONDITIONS

3.1. Quality of Fill Material. Fill Material must be clean, non-hazardous dirt. Fill Material may not contain asphalt, concrete, demo debris, or organics. Fill Material must be compactable and must not be spoils derived from ditch cleanout, storm system, or storm drain ponds.

3.2 Contamination. Customer represents and warrants that the Fill Material is not contaminated by any environmentally Hazardous Material (as defined below) and is not subject to any federal, state or local treatment or remedial requirements or disposal restrictions, and will not release Hazardous Materials (as defined below) that would require investigation, monitoring, clean-up, containment, restoration, removal, governmental notification, or other remedial work under any applicable federal, state, or local law or regulation. The term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is regulated by any governmental authority of the State of Washington or the United States government, including without limitation, any material or substance which (i) is defined or listed as a "hazardous material", "toxic pollutant", "hazardous waste", "hazardous substance" or "hazardous pollutant," under applicable federal, state or local law or administrative codes promulgated thereunder, (ii) contains hydrocarbons of any kind, nature or description, including, but not limited to, gas, oil, or similar petroleum products (iii) contains asbestos, (iv) contains PCBs, (v) contains radioactive materials, (vi) contains heavy metals, (vii) or contains any other material with contaminants exceeding the MTCA Soil Cleanup levels in table 740-1 of WAC 173-340-900.

3.3 Title. Title to Fill Material shall pass upon placement; however, if after placement, any loads of Fill Material are found to be in breach of Customer's representations and warranties in paragraph 3.2, or any other representations or warranties contained herein, Customer shall retain title to such nonconforming material and Customer shall promptly remove such material and any resulting contamination to the Facility for disposal at an approved disposal site. The cost of testing, removal, transport, cleanup, and disposal of any such material will be at the Customer's sole expense.

3.4 NWC's Removal of nonconforming material. In the event that any nonconforming material is not removed by Customer within 24 hours of notice, NWC may transport and dispose of the nonconforming material. If NWC determines it necessary, in its sole discretion, NWC may immediately take action to mitigate damages caused by nonconforming material. This in no way, however, imposes such a duty, or any other duty to monitor or test for nonconforming material, upon NWC. Customer shall reimburse NWC for any costs and expenses whatsoever incurred by NWC relating to the testing, cleanup, removal, and disposal of any nonconforming material.

3.5 Indemnification. To the fullest extent permitted by law: Customer must reimburse, indemnify, defend, and hold harmless NWC, its subsidiaries and affiliates and each of its subsidiaries' and affiliates' present, former, and future shareholders, employees, officers, and directors from and against all loss, damage, expense (including attorneys' fees and expenses), and penalty, and any claim or action therefore by or on behalf of any person (collectively, "Loss") arising out of or in connection with the performance or failure of performance of this Agreement, including, without limitation, Loss arising out of or occurring in connection with: (a) any acts or omissions by Customer or its employees or agents, including, without limitation, personal injury and death claims; (b) all claims of Customer's employees, agents, and subcontractors, including, but not limited to, claims for injury, death, compensation, social security, pension or unemployment and workers' compensation; (c) violation of any laws or regulations relating to Customer's actions or the Fill Material (including, without limitation, liability under the Comprehensive Environmental Response, Compensation and Liability Act, the Solid Waste Disposal Act [or RCRA]; the Toxic Substances Contract Act; the Federal Water Pollution Control Act; and any state counterparts or extensions of the foregoing); (d) Customer's negligent or intentional acts, omissions and breaches of duty; (e) any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal, or other remedial work required under any applicable federal, state or local law, by any judicial order or by any governmental entity arising out of, incidental to or connected with Customer's acts, omissions or deposits of Fill Material. Customer will not be relieved of the foregoing indemnity and related obligations by allegations or any claim that NWC was negligent; but Contractor is not liable to the extent any injury or damage is finally judicially determined by a court of competent jurisdiction to have been proximately caused by the sole negligence or willful misconduct of NWC.

3.6 Waiver. For purposes of this Agreement, Customer specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Act, Title 51 RCW. This waiver does not permit a direct action by the Customer's employee(s) against the Customer. Further, the indemnification obligation under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under worker's compensation acts, disabled benefits acts, or other employee benefit acts. This promise of indemnity specifically applies in the case of injuries to the Customer's own employees.

4. TESTING

4.1 Sample. Customer must test at least one representative sample per _____ cubic/tons (circle one) yards of Fill Material for contaminants. Additional samples may be required, at the discretion of NWC.

4.2 Laboratory. All such samples must be tested by a Washington State Department of Ecology accredited environmental laboratory

4.3 Testing. Each sample must be tested for at least the following contaminants:

- a. Gasoline range hydrocarbons and volatile organic compounds (NWTPH-G and BTEX)
- b. pH
- c. Diesel fuel/heavy oil range hydrocarbons (NWTPH-Dx)

d. Toxicity Characteristic Leaching Procedure for heavy metals (TCLP Metals RCRA-8) for materials imported from previous fill areas, industrial areas, and ports.

e. Any additional contaminants, at the discretion of NWC, including PCBs and carcinogens.

4.4 Results. Customer must provide NWC results of testing required by this Section prior to any placement of Fill Material at the Facility.

4.5 Relief. Passing test results shall not be held to relieve the Customer of any liability under this Agreement should the material Fill Material be determined to contain Hazardous Material.

5. NWC'S OBLIGATIONS

5.1 Safety. The Facility is an active earth moving operation. Customer acknowledges that there may be potentially hazardous conditions present at the Facility. NWC is under no obligation to ensure the safety of Customer, Customer's employees, or Customer's agents. Customer expressly waives any and all claims for damages, including claims for damage to property or bodily injury, arising out of or connected with the Customer's use of the Facility.

5.2 Assistance. Customer acknowledges that at the request of Customer, NWC 's personnel may render assistance to the Customer's personnel or equipment during the course of material disposal at the facility. Customer expressly waives any claim for damages arising out of or connected in any way with such assistance.

5.3 Acceptance of Fill Material. NWC is under no obligation to accept any Fill Material from Customer.

5.4 Maintaining Hours of Operation. NWC will attempt to maintain the Facility's normal hours of operation, but may close the Facility at any time, in its sole discretion, without notice. This includes temporary closures or delays for maintenance, safety, or weather.

6. NON-EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement between NWC and Customer. This Agreement shall not restrict Customer from depositing Fill Materials at any other location or facility.

7. TERMINATION

This Agreement may be terminated at any time without cause or notice by NWC.

8. ENTIRE AGREEMENT

This agreement represents the entire agreement between NWC and Customer. NWC assumes no responsibility for any different understanding or any representations made by any of its officers, agents, or others prior to the execution of this Agreement unless expressly stated herein. If any provision of this Agreement is held to be void or unenforceable by any judicial or administrative authority, or is unlawful or unenforceable under any applicable law, the remaining provisions are considered to be severable and their enforceability is not to be affected or impaired in any way by reason of such law or holding.

9. MISCELLANEOUS

This Agreement shall be interpreted under the laws of the State of Washington. In any dispute arising out of this Agreement, venue shall be had in Pierce County Superior Court. NWC shall be entitled to collect costs and reasonable attorney's fees from Customer for any legal action taken by it to enforce the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this ___ day of _____ 20__

Sign Name

Title

Print Name

Company