

# Terms and Conditions

Carraway-Kilgore, LLC, dba Flint Environmental and its subsidiaries (hereinafter "Company"), agrees to provide certain waste removal services, including the provision of required dumpster equipment ("Equipment") to customer ("Customer") (hereinafter collectively referred to as "Waste Removal Service(s)" or "Service(s)") on the basis of the terms and conditions set forth in these Service Agreement Terms and Conditions (hereinafter "Service Agreement"). Except as specifically set forth herein, or as otherwise communicated by Company to Customer, this Service Agreement and the Service Documents (as defined herein) shall apply to and govern both commercial and residential services orders.

## 1. Acceptance; Contract Formation.

This transaction, including Company's Waste Removal Services, is expressly limited to and made conditional upon Customer's assent to and acceptance of all the terms and conditions contained herein and any supplemental terms set forth in any related service document, including, but not limited to any quotation, proposal, service agreement, acknowledgment and/or invoice (collectively referred to hereinafter as the "Service Documents"). Customer acknowledges that Customer has reviewed this Service Agreement and agrees that by placing an order and accepting the Services that a binding and enforceable service agreement shall exist between Company and Customer and that this Service Agreement along with the Service Documents shall constitute the entire agreement between Company and Customer related to the Services.

## 2. Ordering Process.

Company intakes and processes all Service(s) orders either via telephone or via our website which is located at [www.flintenvironmental.com](http://www.flintenvironmental.com) (the "Website"). All service orders accepted by Company are accepted with the understanding that each such order is subject to Company's ability to arrange for the Services to Customer through its network of subcontractors and vendors. Customer is solely responsible for contacting Company (either via telephone or via the Website) in order to initiate the commencement of the Services, as well as the final pickup of the Equipment (in accordance with the terms of Section 3 herein). Customer acknowledges that any telephone numbers posted on and/or adhered to the Equipment belong to third parties and should not be used for the purpose of attempting to contact Company.

## 3. Delivery and Pickup of Equipment.

Company will use commercially reasonable efforts to ensure timely delivery and pickup of Equipment in accordance with the Service Documents; provided that, due to circumstances beyond our control, including, but not limited to, inclement weather, hazardous roads and/or driving conditions, traffic delays, motor vehicle accidents, delays at landfills and equipment failure, we cannot and do not guarantee delivery times or dates; provided, however, that Company will perform such delivery or pick up as soon as reasonably practical.. Company will not be liable to Customer under any circumstances for costs, expenses, losses and/or damages incurred by Customer in any manner relating to such delays. Upon the delivery of the Equipment to the location as designated by Customer, Customer shall not move, transport or attempt to move or transport (either directly or indirectly) the Equipment from the designated site without prior notice to and consent from Company, which may be withheld within the sole discretion of Company. Client shall provide unimpeded access to the Equipment. In the event that Company attempts to deliver or pick up Equipment and is unable to do so for any reason beyond Company's control, including, but not limited to, restricted access, overloaded Equipment, low-lying power lines or tree branches, blocked access to the delivery or pickup location, damaged Equipment, locked gates, fences or parking lots, inaccessible driveways and/or the storage of prohibited items or substances in the Equipment (collectively referred to as "Dry Run"), then Company shall be entitled to a Dry-Run/Trip Fee. The standard Dry-Run/Trip Fee is a minimum of \$150; provided that, if Company incurs additional charges, fees, fines, penalties costs and/or expenses related to the Dry Run, then Company may increase the Dry-Run/Trip Fee in order to recoup any such charges, fees, fines, penalties costs and/or expenses. Customer acknowledges and agrees that the Company is authorized and entitled to charge to Customer's credit card the amount of any such Dry-Run/Trip Fee. Customer shall be solely responsible for any fees, penalties, fines, assessments, charges, costs and expenses asserted by a third party (including, without limitation, a towing company) incurred in connection with the movement, placement and/or use of the Equipment. In the event of Customer's violation and/or breach of the terms of the Service Agreement (including these Terms and Conditions), Company may, within Company's sole discretion and without prior notice to Customer and without any liability to Customer, pick up the Equipment. In addition, Company may pick up the Equipment at any time if required to do so by local, county and/or state law or as required by order of any local, county and/or state government or agency.

## 4. Prices, Payment Terms and Miscellaneous Fees.

Prices for Services are displayed on the Website, and are intended to be illustrative and the applicable pricing may be modified from time to time within the sole discretion of Company; provided that applicable prices for each Service transaction will be confirmed by Company at the time of Customer's placement of an order for such Service(s). In its sole discretion, Company may increase the charges to account for: any increase in disposal, fuel, steel, insurance or transportation costs; any change in the composition of the waste materials or increases in the average weight per container of waste materials; increased costs due to uncontrollable circumstances, including, without limitation, changes in local, state or federal laws or regulations, imposition of taxes, fees or surcharges and acts of God such as floods, fires, etc. Company may also increase the charges to reflect increases in the Consumer Price Index for the municipal or regional area in which the Customer is located. Increases in charges for reasons other than as provided above require the consent of Customer which may be evidenced verbally, in writing or by the actions and practices of the parties. Customer is responsible for the fuel/environmental charges. Changes in rates, equipment, and frequency of service may be agreed to orally or in writing and shall be deemed evidence by the practices and actions of the parties including payment. Customer shall pay Company for all costs of collection or enforcement of this agreement, to include, but not be limited to, reasonable attorneys fees. Additionally, Customer shall be responsible for all state, local and/or municipal sales and use taxes assessed with respect to the Services provided by Company. Except as otherwise mutually agreed in writing between Customer and Company Customer will pay Company for the Services via credit card payment. Customer hereby expressly authorizes Company to retain Customer's credit card information and charge Customer's credit card on a monthly basis for service fees and all other fees and charges to which Company is entitled hereunder, and Customer shall be obligated to pay all credit card transaction and service fees associated with each transaction. Customer acknowledges and agrees that such credit card authorization shall remain valid and in full force and effect during the applicable service period and for a period of time not to exceed 120 days beyond the last day Services are provided. If, at any time during a service term, Company's authorization to charge Customer's credit card is revoked and/or canceled by Customer or any third party, then Company may, within its sole discretion and without waiving any other rights and/or remedies it may have, immediately terminate the Service, recover the Equipment and cease providing the Services without notice or liability to Customer, and without prejudice to or waiver of any of Company's remedies against Customer.

## 5. Cancellation and Cancellation Fees.

Any service order, once placed with and accepted by Company, may not be cancelled by Customer except upon the consent of Company, which may be withheld within the sole discretion of Company. In the event that Company agrees to accept a cancellation after acceptance of Customer's order, then Company shall be entitled to a cancellation fee (which may be charged to Customer's credit card) in an amount not less than \$25.00 if the cancellation occurs prior to 3:00 p.m. the business day before your scheduled delivery and a cancellation fee in an amount not less than \$100.00 if the cancellation occurs thereafter.

## 6. Weight Restrictions and Overage Fees.

Customer is solely responsible for complying with the weight restrictions applicable to the Equipment. Customer acknowledges that: (a) each item/unit of Equipment has a designated weight specification and corresponding weight limitation (which varies based on the size and type of the Equipment, as well as other factors); (b) the size and/or volume of the particular item/unit of Equipment is not determinative of the applicable designated weight specification and weight limitation for such item/unit of Equipment; (c) local, municipal, city, county and/or state laws, regulations, rules and ordinances also govern and limit the weight and/or amount of material that can be legally stored in and/or transported in the Equipment; and (d) rain, water, snow, ice permitted by Customer to accumulate in the Equipment can increase (and under certain circumstances) exceed the applicable weight restriction relating to specific Equipment. Customer acknowledges that Customer is solely and exclusively responsible for determining the weight restrictions applicable to Customer's Equipment and for strictly complying with such restrictions, including, but not limited to covering and/or tarping the Equipment in order to prevent rain, water, snow, ice accumulation in the Equipment. In the event that Customer fails to comply with applicable weight restrictions (which are set forth below), then, in addition to all other remedies to which Company is entitled and in addition to all other amounts, fees, charges and expenses due from Customer to Company, Customer will pay Company a fee of not less than \$00.10 per pound in excess of the applicable weight restriction for the Equipment (the "Overage Fee"), which may be assessed in the sole discretion of Company. Customer acknowledges and agrees that all Overage Expenses and Overage Fees assessed by Company against Customer may be charged to Customer's credit card.

Maximum weight restrictions for the Equipment:

15 yard container: 2 tons

20 yard container: 3 tons

Additionally, Company is entitled to recovery from Customer any and all other costs and/or expenses incurred by Company in connection with or arising out of any weight overage, which costs and expenses include but are not limited to the following: any fines incurred in connection with the transportation or hauling of the overweight containers, and any damage to the Equipment or trucks transporting the Equipment.

## 7. Permits.

Customer acknowledges that certain locations and/or uses of the Equipment may require a permit, license, certification or other local, municipal, city, county and/or state approval relating to the possession, placement, storage and/or transportation of the Equipment (collectively referred to hereinafter as a "Permit"). Customer represents and warrants to Company that Customer (and not Company) is solely and exclusively responsible for obtaining and maintaining all necessary and required Permits relating to Customer's possession and use of the Equipment. In the event that Customer fails to obtain and/or maintain all necessary and required Permits, Company may pick up the Equipment without prior notice to Customer and without any liability to Customer.

## 8. Prohibited Materials.

Customer acknowledges that local, municipal, city, county, state and/or federal laws, regulations, rules and ordinances prohibit the storage of certain items, materials and substances in the Equipment, including without limitation, tires, batteries, tree stumps, railroad ties, chemically treated lumber, paints and lacquers, oils, asbestos, infectious waste, contaminated soils and absorbents, inks and resins, industrial drums, water heaters and water tanks, food waste, fuels, adhesives, refrigerants, aerosols, and other radioactive, volatile, highly flammable, explosive, toxic, special or hazardous materials and substances. ("Prohibited Materials").

Customer acknowledges and agrees that the only material to which the Services are provided consist solely of non-hazardous general solid waste and/or construction and demolition debris or other inert waste and recyclable materials, and does not include any Prohibited Materials, which are excluded from such Services. Customer agrees to not deposit or permit the deposit for collection any Prohibited Materials in the Equipment and further that title to and liability for Prohibited Materials will remain with Customer at all times. Customer is solely and exclusively responsible for complying with all applicable laws relating to Prohibited Materials, and Customer shall be liable for any charges, costs, expenses, damages, legal fees and costs, losses, fines

and/or penalties (including, but not limited to traffic fines and penalties) of whatever nature relating to the deposit, storage and/or transportation of Prohibited Materials in the Equipment.

## 9. Indemnification.

Customer agrees to indemnify, defend and hold harmless Company, including its officers, directors, members, employees, agents, parent companies, affiliates, subsidiaries, successors, subcontractors, vendors, and assigns from and against any and all claims, counterclaims, suits, demands, actions, causes of action, damages, setoffs, liens, attachments, judgments, debts, fines, penalties, charges, expenses, costs or other liabilities of whatsoever kind or nature (collectively, "Losses") asserted or alleged by any third party arising from or related to: (a) Overage Expenses; (b) Customer's failure to obtain and/or maintain any required Permit; (c) Customer's use, storage, or deposit of Prohibited Materials in the Equipment; (d) loss or theft of the Equipment; (e) damage and/or destruction of the Equipment during the applicable service term; (f) personal injury and/or property damage relating to Customer's use and/or possession of the Equipment; (g) physical damage to streets, roadways, driveways, walkways, pavement, curbs, wells, irrigation systems, landscaping, lawn, septic systems and/or underground utilities caused by the Equipment including, without limitation, any damage to Customer's property from leaks or stains relating to the use of the Equipment; (h) Customer's breach of these terms and conditions or the terms of any of the Service Documents; (i) any fees, penalties, fines, assessments, charges, costs and expenses asserted by a third party (including, without limitation, a towing company) incurred in connection with the movement, placement and/or use of the Equipment; and (j) Customer's violated or alleged violation of any laws, regulations, ordinances, or orders in connection with the Equipment.

## 10. Waiver; Limitation of Liability and Disclaimer of Warranties.

EXCEPT IN THE EVENT OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS AND LOSSES AGAINST THE COMPANY AND ITS SUBCONTRACTORS, HAULER SUBCONTRACTORS, OR VENDORS RELATING TO OR ARISING FROM THE CUSTOMER'S USE OF THE EQUIPMENT AND/OR THE COMPANY'S, OR ITS SUBCONTRACTORS, HAULER SUBCONTRACTORS OR VENDORS PERFORMANCE UNDER THE SERVICE DOCUMENTS, INCLUDING, BUT NOT LIMITED TO, ANY DAMAGE TO STREETS, ROADWAYS, OR CUSTOMER'S PROPERTY, PAVEMENT, CURBING, DRIVEWAYS, WALKWAYS, LANDSCAPING, LAWN, WELLS,

IRRIGATION SYSTEMS, SEPTIC SYSTEMS AND/OR UNDERGROUND UTILITIES RELATED TO OR ARISING FROM THE STORAGE OR TRANSPORT OF THE EQUIPMENT IN OR ON CUSTOMER'S PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY DAMAGE TO CUSTOMER'S PROPERTY FROM LEAKS OR STAINS RELATING TO THE USE OF THE EQUIPMENT. THE EQUIPMENT SHALL BE PROVIDED ON AN "AS-IS" BASIS, AND COMPANY MAKES NO WARRANTIES TO CUSTOMER, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR ANY PARTICULAR USE OR PURPOSE OR THAT THE EQUIPMENT WILL MEET YOUR REQUIREMENTS. THE MAXIMUM AGGREGATE LIABILITY OF COMPANY ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE AGGREGATE FEES PAID BY CUSTOMER TO CUSTOMER FOR THE SERVICES, REGARDLESS OF WHETHER RECOVERY IS SOUGHT IN CONTRACT, TORT, STATUTE, OR OTHERWISE.

## **11. Governing Law; Severability.**

Any and all disputes arising from or in connection with the Services, including, but not limited to, these Terms and Conditions, the Service Documents and/or Customer's possession and use of the Equipment or Company's (including its subcontractors and vendors) performance of the Services, shall be construed in accordance with and governed by the laws of the State of Georgia, U.S.A., including all matters of construction, validity and performance, without giving effect to the conflict of laws provisions of such State. To the extent any court action is brought with respect to the Services, the venue for such action shall be the appropriate state or federal court lying in Muscogee County, Georgia. Any provision hereof which may be prohibited by applicable law shall be ineffective to the extent of such prohibition and without invalidating the remaining provisions hereof.

## **12. Arbitration.**

Any action arising from or in connection with the Service(s), including, without limitation, these Terms and Conditions, the Service Documents and/or Customer's possession and use of the Equipment or Company's (including its subcontractors and vendors) performance of the Services, shall be resolved exclusively through arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The number of arbitrators will be one. The seat, or legal place, of arbitration will be the City of Columbus, Muscogee County, Georgia. The governing law will be the substantive law of Georgia, and judgment on the award rendered by the arbitrator may be entered by any court having

jurisdiction. The parties agree to arbitrate solely on an individual basis, and that this Service Agreement does not permit class arbitration or any claims brought as a plaintiff or class member in any class or representative arbitration proceeding. The arbitration may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. In the event the prohibition on class arbitration is deemed invalid or unenforceable, then the remaining portions of this arbitration provision will remain in force.

### **13. Assignment.**

Neither this service transaction (including the Service Documents), nor any part or portion of Customer's performance hereunder is assignable by Customer in whole or part without the prior written consent of Company, which may be withheld within the sole discretion of Company. No approval shall be required from the Customer in order for the Company to assign this Service Agreement or the performance of the Services.

### **14. Reservation of Rights.**

Company expressly reserves all rights and remedies which are available to it at law or in equity.

### **15. Entire Agreement and Modification.**

The terms and conditions set forth herein and as set forth in the Service Documents (including, but not limited to all requirements as set forth in Company's Website), shall constitute the entire agreement between Customer and Company, and shall supersede all previous agreements. Any of Customer's terms contained in any request for quotation, purchase order, release, statement, correspondence, acknowledgement or any other Customer document which are in addition to or different from the terms contained herein are hereby specifically objected to, rejected and excluded, and shall be of no force or effect. No change in this Service Agreement will be valid unless approved by Company in writing.

16. Time is of the Essence. Time is of the essence with respect to all Service Documents.