

## Terms of Service

**AGREEMENT.** Subject to the terms and conditions of this Agreement (“Agreement”), White River Environmental Services, LLC (“WRES”) agrees to furnish Customer, at Customer’s designated location(s), portable restrooms and other waste-related equipment and services, as may be requested by Customer, from time to time, during the term of this Agreement.

**PRICING.** All equipment and services are billed at an agreed upon rate for twenty-eight (28) days of service, subject to applicable taxes. Minimum twenty-eight day rental rate assessed on all portable restrooms, hand wash units, holding tanks and comfort stations. WRES does not prorate for unused days. Prices are subject to change upon fifteen (15) days written notice to Customer.

**PAYMENT TERMS.** Payment is due upon receipt of invoice. Customer will be invoiced in arrears for 28 days of service for a re-occurring rental or a one-time rental. Should Customer’s account be referred to a collection agency or an attorney, whether “in-house” or otherwise, Customer shall bear the costs of court and/or attorneys’ fees.

**UNIT DELIVERY, LOCATION, AND RETRIEVAL.** Delivery dates provided by WRES are approximate. WRES shall have no liability for failure or delay in delivery or failure to notify Customer of any delay or non-delivery. WRES is not responsible for Customer’s failure to designate unit placement (i.e. flagged) at delivery. If unit is set in an undesired area because Customer failed to designate placement area and WRES is asked to return, then WRES reserves the right to charge a fee ranging from \$25-\$75 depending on the service location. Relocation of the unit will be performed at WRES’s earliest convenience.

**EQUIPMENT USE AND ACCESS.** Customer will immediately notify WRES and discontinue use of equipment that is or becomes unsafe or dangerous, in any respect. Customer shall provide unobstructed access to equipment on the day of servicing or removal, or be subject to a \$25-75 trip charge, delayed service or removal. A unit is inaccessible if it is located more than twenty five (25) feet from an area accessible to a pumper truck. Customer represents that it has authority to permit WRES to enter upon property upon which the WRES units are located to permit WRES to service, repair, or remove a unit and agrees to hold WRES harmless from WRES entry upon such real property for these purposes. Customer acknowledges that health standards require 1 unit for each 10 persons on site. It is Customer’s sole responsibility to contact WRES to request all equipment relocations and final pick-ups. WRES HEREBY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE AND QUIET ENJOYMENT.

**PROHIBITED WASTE.** Customer warrants that, unless otherwise agreed under separate written agreement, no controlled, hazardous, toxic, or radioactive wastes or substances, as defined by applicable federal, state or local laws or regulations, will be placed in waste disposal containers. Prohibited wastes include, but are not limited to: paint; tires; batteries; free liquids, sludge, industrial process and pollution control process wastes; residue, contaminated residue and residuals from chemical spills or cleanups; liquids and sludge from septic tanks, food service grease traps and commercial laundries and car washes; biomedical waste; friable asbestos; non-friable asbestos; oil filters, cathode ray tubes, acetylene tanks, and other chemical equipment; and, waste produced from dismantling or demolition of industrial process equipment contaminated with chemicals. Customer agrees to indemnify, defend and hold WRES harmless from any and all claims, suits, damages, penalties, citations, fines, and liabilities for injury or death to persons or damages to property or the environment, arising out of a breach of this warranty or caused by Customer’s waste containing hazardous or other prohibited waste.

**RISK OF LOSS OR DAMAGE.** Customer agrees to return all equipment furnished under this Agreement to WRES in the same condition as delivered, subject only to normal wear and tear. Customer shall bear the risk of loss and damage to equipment. In the event of damage, other than damaged caused directly by WRES, Customer shall pay the lesser of (a) the cost or repair, or (b) the cost of replacement in its yard in Lowell, AR. The cost of replacement of a standard portable toilet is agreed to be \$550, which will be billed to the Customer in the event of loss. No loss or damage to equipment, in whole or in part, shall impair Customer’s payment obligations under this Agreement.

**TERM.** This Agreement shall be effective beginning the date of order and shall continue in full force and effect until WRES receives written notice of termination from Customer sent by certified or registered mail, return receipt requested. Said notice shall specify the effective date of termination, which shall be no less than seven (7) days after WRES’s receipt of said notice of termination. Termination of this Agreement shall in no way release Customer or guarantor from any sum, debt or other obligation, including any duty to defend and/or indemnify WRES, incurred or arising prior to such termination.

**INVOICE DISPUTES; WAIVER.** In the event Customer disputes any amount invoiced hereunder, Customer agrees to provide WRES with written notification of such dispute within twenty (20) calendar days of the disputed invoice date, or else waive such dispute. Even in the event of a timely notice of dispute, Customer agrees to timely pay all undisputed amounts invoiced hereunder.

**DEFAULT.** If Customer fails to make any payment or perform any obligation under this Agreement or becomes in any way the subject of a bankruptcy proceeding, WRES shall be under no obligation to furnish additional equipment or services to Customer until the default is cured and WRES may, without penalty, legal process or notice of any kind, immediately retake possession of all of its equipment from Customer, regardless of location.

**LIMITATION OF LIABILITY.** WRES shall not be liable for damage to pavements or other driving surfaces resulting from the weight of vehicles servicing the equipment location designated by Customer, nor for any damages incurred while executing Customer’s directions. In no event shall WRES, its members, managers, employees, agents, attorneys, insurers, affiliates, successors, or assigns be liable for: i) any claim, loss, damage or expense of any kind (including strict liability in tort) arising out of or related to the ownership, selection, possession, lease, operation, control, use, maintenance, delivery or return of the equipment; ii) incidental, indirect, special or consequential damages (including loss of profits or production), whether suffered by Customer or any third party, no matter the cause; or, iii) any amount in excess of the amount WRES receives from Customer as payment under this Agreement.

**INDEMNITY.** Customer agrees to defend, indemnify and hold WRES harmless from and against any and all claims, actions, suits, costs, expenses (including attorney’s fees), damages and liabilities for injury or death to persons or loss or damage to property, arising out of or related to the equipment or services furnished under this Agreement, including costs, expenses, and attorney’s fees incurred by WRES in an action, claim, or suit to enforce or prosecute Customer’s obligations under this provision or Agreement.

**CHOICE OF LAW; CONSTRUCTION.** This Agreement shall be governed by the laws of the State of Arkansas. There shall be no presumption or inference against the party drafting this Agreement in construing or interpreting its provisions. Any provision of this Agreement, or portion thereof, held to be void or unenforceable under applicable law, shall be deemed stricken and all other provisions, as well as the other portions of the provision at issue shall continue to be valid and binding on the parties. This Agreement constitutes the entire agreement between the parties with regard to its subject matter, superseding all prior negotiations and agreements, and shall not be amended, altered or changed except in writing signed by both parties.