

# RECLAMATION FILL SOURCE - DEVAULT RECLAMATION FACILITY ACCEPTANCE INFORMATION AGREEMENT

Please complete, sign and submit this form with any relevant environmental due diligence information pertaining to the fill size and submit to the Devault Reclamation Fill acceptance weigh master.

## CUSTOMER\*:

Contact Name:  Title:   
Company:  Address:   
City:  State:  Zip:   
Phone:  Email:  Customer ID:

## JOBSITE/MATERIAL INFORMATION\*:

Property/Project of Origin:  Property Owner:   
Property Address:  City:  State:  Zip:   
Township  County   
Material Start Date:  Material End Date:  Est. Volume (CY):

Material Description: (fill out description section and check which type of generating site)

Industrial/Commercial       Residential

1. Reclamation Fill Materials.

- a. Customer shall only deliver and/or dispose of at the Devault Reclamation Fill Facility (the "Facility") material that qualifies as Reclamation Fill and otherwise meets the requirements of this Section 1.
- b. For purposes of this Agreement, "Reclamation Fill" means uncontaminated, non-water-soluble, non-decomposable, inert solid material including: (a) soil; (b) rock; (c) stone; (d) gravel; (e) unused bricks (provided no painted surfaces); (f) block and concrete (provided no painted surfaces); (g) block and concrete containing metal internally, which shall mean that all metal shall be removed from the surface of the block and/or concrete so that only rebar or other metals that are embedded in the concrete remain; and (h) incidental asphalt in an amount of 25% or less on average in any one load by volume.
- c. Customer shall not deliver to or dispose of at the Facility any materials that do not meet the definition of Reclamation Fill, including, without limitation, materials containing: wood; plaster; metals (except as provided in the definition of Reclamation Fill); asphaltic substances (including, but not limited to shingles/roofing materials) that do not qualify as incidental asphalt under the definition of Reclamation Fill; bricks, blocks, or concrete with painted surfaces; tile; refractory brick; fly ash; dredged materials; other materials that are not free or separate of materials meeting the definition of waste under applicable regulations; or other materials that do not meet the definition of Reclamation Fill or the requirements of the Facility.
- d. Further, Customer shall not deliver to or dispose of at the Facility any fill material originating from an industrial or commercial site; a site with one or more underground storage tanks; an "Act 2" cleanup site; a superfund site; or a large source (a source exceeding 2500 tons), even if the materials meets the definition of Reclamation Fill, unless, before importation of the first load: (a) the material is adequately characterized by Customer per a laboratory analysis that complies with the applicable methodologies referenced in the Pennsylvania Department of Environmental Protection ("DEP") Management of Use of Reclamation Fill at Active Non-Coals sites and (b) the material is pre-approved by the Pottsville District Office of the DEP.
- e. Customer certifies that all materials brought to the Facility meet the definition of "Reclamation Fill" and the other requirements of this Section 1 and otherwise satisfy the standards established by the DEP for Reclamation Fill. The Customer is and shall remain liable for any material brought to and/or disposed of at the Facility that does not qualify as Reclamation Fill or meet the requirements of this Section 1 (collectively, "Non-Reclamation Fill"). Any Non-Reclamation Fill material discovered after the Customer has left the Facility may be reloaded by the Facility and properly disposed of at the Customer's cost. Customer shall reimburse Devault Partners L.P. upon demand for all damages, penalties, fines, costs and expenses (including without limitation, attorney's fees) of any kind or nature incurred by Devault Partners L.P., its contractors and/or the Facility arising out of, related to or in connection with the disposal of Non-Reclamation Fill materials at the Facility and/or the proper disposal of Non-Reclamation Fill materials and any other materials affected thereby.

2. Access to the Facility; Responsibility for Material. Customer on behalf of itself and the driver of the truck which accesses the Facility, agrees that access to the Facility is provided to the driver and the Customer at their own risk, and neither Devault Partners L.P. nor any of the other Indemnified Parties (defined below) accept responsibility for any accidents, injury, harm or damage to Customer, driver and/or their equipment. Customer shall comply with all safety and security requirements applicable to the Facility. To the fullest extent permitted by law, the Customer agrees to defend, indemnify and save harmless Devault Partners, L.P., its agents, independent contractors and partners, and the parent and affiliated companies of any of the foregoing (collectively, "Indemnified Parties") from and against any and all Losses to the extent arising out of, related to or in connection with: (a) Non-Reclamation Fill and/or the proper removal and disposal of such Non-Reclamation Fill and any other materials affected thereby, and/or (b) personal injury, including death resulting therefrom, property damage, and/or both, but only to the extent caused in whole or in part by the Customer, the driver or any person or entity for whom the Customer or driver is responsible. It is expressly understood and agreed that the indemnity, defense and hold harmless obligations contained in this section cover claims by the Customer's or the driver's employees and that Customer expressly waives any defense to these obligations which may arise under the worker's compensation laws or similar laws of any state. For purposes of this Agreement, "Losses" means losses, liabilities, damages and claims, and all related costs and expenses (including, without limitation, reasonable legal fees and disbursements and costs and expenses of investigation and litigation, and costs of settlement, judgment, interest, fines and penalties.

3. Creditor. Devault Partners L.P. and all of its operating subsidiaries, affiliates, successors, assigns, heirs, executors and administrators (hereinafter collectively referred to as "Creditor"), have the right to and will rely upon the representations of Customer in this Agreement in deciding whether to extend credit or provide any materials, labor and/or services to Customer. In doing so, however, the Customer understands and agrees that Customer's rights and remedies with respect to any material, labor and/or services supplied to Customer by Creditor are limited solely to the individual operating entity of Creditor that actually supplies the material, labor and/or services to Customer. Customer waives any and all claims it may presently have or in the future may have against Creditor other than the individual operating entity of Creditor that actually supplies material, labor and/or services to Customer.
4. Payment.
  - a. Customer shall pay all amounts due on all accounts Net 30 days. The Customer agrees to pay Finance Charges of 1.5% per month on all balances over 30 days. If it becomes necessary for the account to be placed with a third party for collection, Customer agrees to pay all costs resulting therefrom, including without limitation attorney's fees, court costs and post judgement interest until the debt is paid. All accounts shall be due and payable in Worcester, Montgomery County, Pennsylvania. The laws of the Commonwealth of Pennsylvania shall be applicable to all actions arising under any agreement or transaction between Customer and Creditor or any other venue Creditor may elect at its sole discretion.
  - b. The Customer agrees that the continued solvency of Customer is a precondition to any sale made by Creditor, and Customer agrees to provide to Creditor reasonable evidence that Customer is and remains solvent. The Customer agrees that all funds owed to Customer from anyone or received by Customer to the extent those funds result from the labor, materials or services supplied by Creditor, shall be held in trust for the benefit of Creditor. The Customer agrees Customer has no interest in such Trust Funds held by anyone and to promptly account for and pay to Creditor all such Trust Funds, and furthermore, to irrevocably assign to Creditor any interest Customer may have in its Trust Fund accounts receivable.
  - c. Credit availability, if approved, is limited to the terms of the separate Credit Application completed by or in connection with Customer, and such application shall become a part of this Agreement.
  - d. The Customer agrees that Creditor, at its sole discretion, may apply any payment received from Customer in any manner against any debt owed to Creditor by Customer. In the event that from time to time Creditor may owe credits, refunds or other monies to Customer, such indebtedness may be applied at the sole discretion of Creditor to any of the Customer's open account balances.
5. NO WARRANTY. THE CUSTOMER AGREES AND UNDERSTANDS THAT ALL SALES BY CREDITOR TO CUSTOMER EXCLUDE ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR PARTICULAR PURPOSE OR USE. CREDITOR MAKES NO EXPRESS WARRANTY WITH RESPECT TO ANY MATERIAL, LABOR AND/OR SERVICE. IN NO EVENT SHALL CREDITOR BE LIABLE FOR ANY LOSS OR DAMAGE ARISING DIRECTLY OR INDIRECTLY FROM THE USE OF THE FACILITY OR FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES OR LOSS OF PROFITS. ALL CLAIMS WITH RESPECT TO MATERIAL, LABOR AND/OR SERVICES PROVIDED MUST BE MADE IN WRITING BY CUSTOMER TO CREDITOR WITHIN 30 DAYS OF THE SALE, AND, IF NOT, CUSTOMER WAIVES ALL SUCH CLAIMS.

**By signing below, the Customer acknowledges and agrees to this Agreement on behalf of Customer and the driver, and Customer further certifies that: (a) the material requested to be delivered to the Facility meets the definition of "Reclamation Fill" and meets the other requirements of this Agreement, and (b) the material was derived from the property/project listed above.**

**The Devault Reclamation Fill facility has the right to reject any materials for any reason.**

Name:*	<input style="width: 95%;" type="text"/>	Title:	<input style="width: 95%;" type="text"/>
Company*:	<input style="width: 95%;" type="text"/>		
Signature:*	<input style="width: 95%;" type="text"/>	Date:*	<input style="width: 95%;" type="text"/>

\*I declare under penalty of perjury, under the laws of the Commonwealth of Pennsylvania, that I am an authorized official or representative of the Customer, and that all statements contained in this Agreement and any accompanying documents are true and correct. Also, electronic and/or facsimile signatures are acknowledged and agreed to bind signer.

**THIS FORM MUST BE SUBMITTED TO THE RECEIVING FACILITY FOR REVIEW AND APPROVAL BEFORE THE FIRST LOAD OF MATERIAL MAY BE DELIVERED. UNREVIEWED/UNAPPROVED MATERIALS WILL NOT BE PERMITTED TO DUMP AT ANY FACILITY.**

FOR OFFICE USE ONLY:

Reviewed By: _____	Rejected	Accepted	Date: _____
--------------------	----------	----------	-------------