

# Bluff City Materials, Inc.

## Clean Construction Fill Acceptance Agreement

This "Agreement" is made by and between Bluff City Materials, Inc., 2252 Southwind Blvd, Bartlett, Illinois 60103 and the signed "Customer".

Whereas the Customer will be engaged at a project located at the site described in Exhibit A attached hereto, (" the "site" ).

Whereas in connection with the project, fill material will be removed from the Site ("Fill Material") BUT NOT areas or materials set forth on the attached Excluded Area / Material Description form and

Customer desires to place the fill material at Bluff City Material's Quarry located at Gifford Rd, Middle Street, Route 31, Route 25 and West Bartlett Rd in Elgin and Stearns Rd in Bartlett, Illinois. Whereas, material accepted by Bluff City Materials, at it's quarry's will be used as fill. In order to accept Fill Material at it's quarries, the Fill Material must be " clean construction or demolition debris" as defined in 415 Illinois Compiled Statutes 5/3.78a: " Clean construction or demolition debris ", means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed asphalt pavement, or dirt or sand generated from construction or demolition activities".

Whereas Fill Material from the Site consists of the material identified in Exhibit a attached hereto.

Now, therefore, in consideration of the above and the mutual covenants and agreements below, Bluff City Materials and the Customer agree as follows:

### Fill Material Acceptance Terms and Conditions

1. Customer shall not transport any material to Bluff City Materials quarries other than the Fill Material from the Site unless transport of such other material is authorized pursuant to this Agreement or a separate fill acceptance agreement. Customer agrees to provide Bluff City Materials with copies of waste manifests evidencing that any material from the Site excluded by Bluff City Materials or not qualifying as Fill Material has been properly disposed of by Customer.
2. Customer represents and warrants that the Fill Material to be shipped from the Site satisfies the definition of clean construction and demolition debris contained in 415 Illinois Compiled Statutes 5/3.78a, and is not subject to any federal, state, or local treatment or remedial requirements or disposal restrictions. Customer represents and warrants that the Fill Material from the Site does not contain and will not release Hazardous Materials in quantities that would require investigation, monitoring, clean up, containment, restoration, removal, governmental notification, or other remedial work under any applicable federal, state or local laws 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 Illinois, 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 and similar petroleum products, other than reclaimed asphalt pavement, (iii) contains asbestos, (iv) contains PCBs, or (v) contains radioactive materials.

3. Customer agrees to release, indemnify, defend and hold Bluff City Materials and it's officer's, employees and agents harmless from and against any liability for losses, claims, demands, suits or judgments and any payments made in settlement thereof ( including, without limitation, liability under the Comprehensive Environmental Response, Compensation, and Liability Act; the Solid Waste Disposal Act ( or RCRA ); the Toxic Substances Control Act; the Federal Water Pollution Control Act; and any state counterparts or extensions of the foregoing ), including without limitation, payment of reasonable attorney's fees and expenses, to the extent arising from, incidental to or connected with one or more of the following:
  - a.) any claim or death, injury or damage to persons or property or claim of breach of any requirement imposed by any state, federal or local government authority, whether judicial, administrative or legislative, arising out of, incidental to, or connected with Customer's or Customer's agents' or employees' acts, omissions or deposits of Fill Material or connected with the presence of Customer's trucks, or trucks under hire to Customer, on Bluff City Materials premises;
  - b.) any breach of any representation, warranty, covenant or certification made by Customer to Bluff City Materials;
  - c.) Customer's negligent or intentional acts, omissions or breaches of duty;
  - d.) 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.
4. The warranties, representations, guarantees, and indemnities set forth herein shall survive and continue in full force and effect so long as the Fill Material is present at the Bluff City Materials Quarry.

Fill Material Handling, Inspection and Placement

5. All loads will be subject to inspection by Bluff City Materials personnel prior to placement of the Fill Material and no Fill Material will be unloaded without approval. Bluff City Materials reserves the right to reject any loads that Bluff City Materials, in its sole discretion, determines to be contaminated or in breach of the warranties herein. Bluff City Materials may terminate this Agreement if an investigation of the Site reveals the presence or potential presence of Hazardous Materials or material that is not clean construction or demolition debris.
6. Loads of Fill Material shall be placed only in the fill area designated by Bluff City Materials Quarry supervisors, during approved hours of operation, and in accordance with approved procedures.
7. 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 2,  
Customer shall retain title to such nonconforming material and Customer shall promptly remove such material and any resulting contamination to Bluff City Materials premises and Customer shall bear all expenses of such removal and shall pay the nonconforming material handling charge set forth below.
8. In the event of breach by Customer of and terms and conditions herein, Bluff City Materials may terminate deposit of Fill Material without advance notice.
9. Broken concrete and reclaimed asphalt pavement shall be kept separate and shall not be intermixed with each other or with soil and other materials. Broken concrete and reclaimed asphalt will be placed in areas designated by Bluff City Materials Quarry supervisors.

#### Fill Deposit Fee and Nonconforming material Handling Charge

10. Customer will pay to Bluff City Materials a fill deposit fee as set forth in Bluff City Materials Price List in effect as of the date of this Agreement. As Bluff City Materials makes changes to its Price List, such revised changes shall be deemed applicable on the date that Fill Material is brought into Bluff City Materials Quarry. No alternate price shall be deemed effective unless set forth in Exhibit A and signed by Bluff City Materials authorized agent.
11. In addition to the deposit fee and Customer's indemnification obligation under paragraph 3, in the event that any loads of Fill Material that do not comply with the representations and warranties of paragraph 2 of this Agreement are deposited, Customer agrees to pay a handling charge of \$\_\_\_\_\_ per load / yard for each load / yard of nonconforming material removed by Customer.
12. This Agreement constitutes the entire understanding between Bluff City Materials and Customer  
hereto and cancels and supersedes all prior negotiations, representations, understandings and agreements, either written or oral, with respect to the subject matter hereof. No, changes, alterations or modifications to this Agreement will be effective unless in writing and signed by

Bluff City Materials and Customer hereto.

13. The person signing this Agreement as Guarantor, having a financial and other interest in the Customer and its business activities, hereby unconditionally guarantees the full and faithful performance of each and every obligation herein imposed upon the Customer which guaranty shall be deemed continuing notwithstanding the payment of all amounts due hereunder or notwithstanding the exercise by Bluff City Materials of any rights by it hereunder.

14. In the absence of the Customer signing a separate agreement for a separate of different Site(s),  
and at Bluff City Materials election, this Agreement shall be deemed to continue in full force and effect even though Customer brings Fill Material from a location other than the Site designated herein. This Agreement may be supplemented by the parties execution and delivery of a supplemental form of Exhibit A which identifies a new or separate Site or additional terms which supplement or modify this Agreement.

Bluff City Materials, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Customer:

Company Name: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_