

Web Site Terms and Conditions of Use

By using this web site, the user agrees to the Terms of Service and Privacy Policy.

By accessing this web site, you are agreeing to be bound by these web site Terms and Conditions of Use, all applicable laws and regulations, and agree that you are responsible for compliance with any applicable local laws. If you do not agree with any of these terms, you are prohibited from using or accessing this site. The materials contained in this web site are protected by applicable copyright and trade mark law.

IMPORTANT – READ CAREFULLY:

BY COMPLETING THE ELECTRONIC ACCEPTANCE PROCESS AND CLICKING THE ACCEPTANCE BUTTON, YOU REPRESENT AND WARRANT THAT YOU: (i) ARE 18 YEARS OF AGE OR OLDER; (ii) ARE, OR ARE AUTHORIZED TO SIGN FOR AND BIND, THE CONTRACTING PARTY DEFINED BELOW AS “CUSTOMER;” AND (iii) HAVE READ, UNDERSTAND AND AGREE ON BEHALF OF CUSTOMER TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS ONLINE SUBSCRIPTION AGREEMENT. OTHERWISE, DO NOT CLICK THE ACCEPTANCE BUTTON TO PROCEED AND YOUR REGISTRATION PROCESS WILL BE DISCONTINUED.

This Online Subscription Agreement (this “**Agreement**”) is a legal and binding instrument entered into as of the date of electronic acceptance by Customer (the “**Effective Date**”), by and between WasteCap Resource Solutions, and “**Customer**,” the individual or entity entering into this Agreement. WasteCap Resource Solutions reserves the right to amend this Agreement from time to time without notice to Customer. The most current version of this Agreement can be reviewed by clicking on the “Terms of Service” hypertext link located at the bottom of WasteTRACE Web pages.

Description of Services. WasteCapTRACE is an online documentation service that allows users to document reuse and recycling results from construction, demolition or remodeling projects. Users enter project data, goals, materials, estimates, contacts, and forms in order to monitor, calculate, and document project recycling results. WasteCapTRACE allows users to aggregate project information and create final reports in a way that complies with audit requirements from government entities and certifications programs. WasteCapTRACE can be used to maintain information for a single construction, demolition or remodel project or to compile results for multiple projects.

1. **Online Registration.** To subscribe to Services via the WasteTRACE Web site, Customer must complete the online registration process, including Customer’s electronic acceptance of this Agreement, and WasteCap Resource Solutions must then accept such online registration. WasteCap Resource Solutions may reject an online registration by a potential Customer in its sole discretion and is

not obligated to provide a reason for its rejection. In the event a potential Customer's online registration is rejected by WasteCap Resource Solutions, such potential Customer may submit a new online registration for re-evaluation by WasteCap Resource Solutions.

a. Registration Data.

As part of the online registration process, WasteCap Resource Solutions will collect certain limited information about Customer ("Registration Data"). All Registration Data provided by or on behalf of Customer must be current, complete and accurate, and Customer is solely responsible for updating such Registration Data as necessary. WasteCap Resource Solutions reserves the right to terminate this Agreement immediately in the event any Registration Data is found to be inaccurate, incomplete or not current at any time.

b. Account Password/Security.

As part of the online registration process, Customer will choose a password and a user name. Customer is entirely responsible for maintaining the confidentiality of its password and account, and Customer is solely responsible for any and all activities that occur under its account. Customer agrees to notify WasteCap Resource Solutions immediately of any unauthorized use of its account or any other breach of security. WasteCap Resource Solutions shall not be liable for any loss that Customer may incur as a result of a third party using its password or account, either with or without its knowledge. Customer may be held liable for losses incurred by WasteCap Resource Solutions or another party due to a third party using Customer's account or password.

c. Payment Information.

As part of the online registration process, WasteCap Resource Solutions will collect certain additional information related to billing and payment matters ("Payment Information"). Such

Payment Information will include a valid debit card or credit card number with available credit sufficient to pay the applicable Subscription Fees, an election of a preferred billing frequency, and other information as required by WasteCap Resource Solutions. All Payment Information provided by or on behalf of Customer must be current, complete and accurate, and Customer is solely responsible for updating such Payment Information as necessary. Customer hereby authorizes WasteCap Resource Solutions, from time to time, to take steps to determine whether the debit card or credit card number provided is valid. WasteCap Resource Solutions reserves the right to terminate this Agreement immediately in the event any Payment Information is found to be inaccurate, incomplete or not current at any time. WasteCap Resource Solutions shall not be responsible for any overdraft charge or other fees that may be incurred by WasteCap Resource Solutions's use of Customer's debit card or credit card.

d. Trial and Promotional Offers.

From time to time, WasteCap Resource Solutions may offer certain trial and/or promotional offers. WasteCap Resource Solutions reserves the right to discontinue or modify coupons, credits, trials and promotional offers at its discretion and without notice. Any such trial or promotional offers may not be combined with other coupons, credits, trials, promotions or any other discounts, and are limited to one (1) per Customer.

e. Privacy.

WasteCap Resource Solutions's use of any information provided by Customer, including without limitation, Registration Data and Payment Information, is set forth in WasteCap Resource Solutions's current Privacy Policy for each of the applicable Service(s), which can be found by clicking on the "Privacy Policy" hypertext link located at the bottom of the respective Web page for each Service.

2. Customer Rights and Restrictions.

- a. During the Term of this Agreement, and upon Customer's payment of all applicable Subscription Fees, WasteCap Resource Solutions will enable Customer to access and utilize the Services as contemplated herein, and Customer may access and use the Services subscribed to hereunder pursuant to and in accordance with the provisions of this Agreement.
- b. Customer shall be solely responsible for all content transferred by Customer or any other party in connection with Customer's access and/or use of the Services, including all visual, written and/or audible communications. Customer hereby agrees not to access and/or use the Services (i) to send unsolicited commercial email in violation of applicable law; (ii) to communicate any message or material that is deemed harassing, threatening, indecent, obscene, libelous, slanderous, or otherwise unlawful; (iii) in a manner which violates the intellectual property rights of any party; or (iv) in a manner which constitutes or encourages conduct that could be a criminal or civil offense under any applicable law or regulation. Although WasteCap Resource Solutions is not responsible for any such content or communications, WasteCap Resource Solutions reserves the right to take any action it deems necessary or appropriate in its sole discretion, with respect to any such content or communications of which WasteCap Resource Solutions may become aware, at any time and without notice to Customer.
- c. Customer may not reverse engineer, decompile or otherwise attempt to decipher any code in connection with the Services or any other aspect of WasteCap Resource Solutions's technology.
- d. Customer may not resell, distribute, or otherwise use any of the Services on a timeshare or service bureau basis.
- e. Customer shall not access and/or use any of the Services in any manner that could damage, disable, overburden, impair or otherwise interfere with or disrupt the WasteCap Resource Solutions Web sites, Services or any networks or security systems of WasteCap Resource Solutions.
- f. No other rights are granted hereunder except as expressly set forth in this Agreement.

3. Term and Termination.

a. Term.

This Agreement shall commence on the Effective Date and continue for the subscription period as stated on Customer's "My Account" page within the WasteCap Resource Solutions Web site. Customer may access its "My Account" page at any time and update certain account information.

b. Termination for Cause.

WasteCap Resource Solutions reserves the right to terminate this Agreement immediately if Customer breaches any of its material obligations under this Agreement.

c. Effect of Termination.

Upon termination of this Agreement, Customer will immediately discontinue all access to and use of the Services. WasteCap Resource Solutions shall not be liable for any damages resulting from a termination of this Agreement as provided for herein; provided, however, the termination of this Agreement shall not affect any claim arising prior to such termination.

4. Subscription Fees.

Customer is responsible for all Subscription Fees, and hereby authorizes WasteCap Resource Solutions to obtain payment of all such Subscription Fees in accordance with the Payment Information, as stated on Customer's "My Account" page within the WasteCap Resource Solutions Web site. Customer shall also be responsible for all applicable taxes (withholding tax, sales tax, services tax, value-added tax (VAT), goods and services tax (GST), etc.) or duties imposed by any government entity or collecting agency EXCEPT those taxes based on WasteCap Resource Solutions net income.

5. Confidential Information.

Unless expressly authorized in writing by the other party, neither party shall disclose to any third party any project specific, non-public

information or materials provided by the other party under this Agreement and reasonably understood to be confidential (“**Confidential Information**”), or use such Confidential Information in any manner other than to perform its obligations under this Agreement. WasteCap Resource Solutions reserves the right to use project data in aggregated form. The foregoing restrictions do not apply to any information that **(i)** is in or becomes available through the public domain, **(ii)** is already lawfully in the receiving party’s possession, **(iii)** was known to the receiving party prior to the date of disclosure, **(iv)** becomes known to the receiving party from a third party having an apparent bona fide right to disclose the information, or **(v)** Confidential Information that the receiving party is obligated to produce pursuant to an order of a court of competent jurisdiction or a valid administrative subpoena, providing receiving party provides disclosing party timely notice of such court order or subpoena. Furthermore, Customer will keep in strict confidence all passwords and other access information to the Services.

6. DISCLAIMER OF WARRANTIES.

CUSTOMER HEREBY ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE PROVIDED BY WASTECAP RESROUCE SOLUTIONS ON AN “AS IS” BASIS, AND CUSTOMER’S ACCESS TO AND/OR USE OF THE SERVICES IS AT ITS SOLE RISK. WASTECAP RESOURCE SOLUTIONS EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WASTECAP RESOURCE SOLUTIONS MAKES NO WARRANTY THAT ANY OF THE SERVICES WILL MEET THE REQUIREMENTS OF CUSTOMER OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY OR ERROR-FREE, NOR DOES WASTECAP RESOURCE SOLUTIONS MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR THE ACCURACY OF ANY OTHER INFORMATION OBTAINED THROUGH THE SERVICES OR THAT ANY DEFECTS IN THE PLUG-IN WILL BE CORRECTED. CUSTOMER UNDERSTANDS AND AGREES THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE

OBTAINED (INCLUDING PLUG-INS) THROUGH THE USE OF ANY OF THE SERVICES IS DONE AT THE SOLE RISK OF CUSTOMER AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO ITS COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. NO INFORMATION OR ADVICE, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM WASTECAP RESOURCE SOLUTIONS OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMER.

7. LIMITATION ON LIABILITY.

IN NO EVENT SHALL WASTECAP RESOURCE SOLUTIONS BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL, MULTIPLE, PUNITIVE OR OTHER DAMAGES RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, LOSS OF INCOME, LOSS OF OPPORTUNITY, LOST PROFITS, COSTS OF RECOVERY OR ANY OTHER DAMAGES), HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT FOR BREACH OF CONTRACT, NEGLIGENCE, OR OTHERWISE, AND WHETHER OR NOT WASTECAP RESOURCE SOLUTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WASTECAP RESOURCE SOLUTIONS LIABILITY HEREUNDER IS LIMITED TO \$50. SOME JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO CUSTOMER.

8. Indemnification.

Customer hereby agrees, at its sole expense, to indemnify, defend and hold WasteCap Resource Solutions harmless from and against any loss, cost, damages, liability or expense arising out of or relating to (i) a third-party claim, suit, proceeding, action or allegation of infringement based on information, data, files or other content submitted by Customer or otherwise related to Customer's access to and/or use of the Services; or

(ii) any fraud or manipulation, or other breach of this Agreement by Customer.

9. Additional Terms.

a. Authority.

Each party hereby represents and warrants to the other party that it has all necessary authority to enter into and perform its obligations under this Agreement without the consent of any third party or breach of any contract or agreement with any third party.

b. Assignment.

Customer may not assign its rights or delegate its duties under this Agreement either in whole or in part, and any such attempted assignment or delegation shall be void.

c. Force Majeure.

WasteCap Resource Solutions will not be responsible for any delay, interruption or other failure to perform under this Agreement due to acts beyond the control of WasteCap Resource Solutions.

d. Choice of Law.

This Agreement and any dispute arising out of or in connection with this Agreement shall be governed by and construed under the laws of the State of Wisconsin, without regard to the principles of conflict of laws.

e. Proprietary Rights.

WasteCap Resource Solutions retains ownership of all proprietary rights in or associated with all its products and services (including the Services), and Customer may not use the WasteCap Resource Solutions logo, or any other name, logo, icon or mark identifying WasteCap Resource Solutions's products and/or services (including the Services) without prior written permission of WasteCap Resource Solutions.

f. **Compliance with Laws.**

Customer shall comply with all applicable laws, rules and regulations relating to Customer's access to and/or use of the Services.

g. **No Waiver.**

The failure of either Customer or WasteCap Resource Solutions in any one or more instance(s) to insist upon strict performance of any of the terms of this Agreement will not be construed as a waiver or relinquishment of the right to assert or rely upon any such term(s) on any future occasion(s).

h. **Severability.**

If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from this Agreement and the other provisions shall remain in full force and effect.

i. **No Third Party Beneficiaries.**

No person or entity not a party to this Agreement will be deemed to be a third party beneficiary of this Agreement or any provision hereof.

j. **Entire Agreement.**

This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and understandings with respect to the same. No waiver or amendment of any term or condition of this Agreement shall be valid or binding on either party unless agreed to in writing by both parties.

k. **Captions and Headings.**

Captions and headings are used herein for convenience only, are not a part of this Agreement, and shall not be used in interpreting or construing this Agreement.