

COMPANY NAME
SEPTIC SYSTEM MONITORING AND SERVICE AGREEMENT

_____ (“Company”) agrees to conduct the following management, and other related services for the septic and/or onsite wastewater treatment system owned by _____ (“Customer”), and located at _____ (“Property”). The scope of services contained in this Agreement shall include only those services that are provided within the Company’s proposal (Separate Attached Document). It is understood and agreed to by both parties that any other services or obligations that are not expressly stated within the Contract Documents, are excluded from the scope and terms of this Agreement.

If additional services not identified in this agreement are to be performed, it is understood that an amended document will be prepared and the customer billed and paid to the Company’s standard rates, that are in effect at the time the services are rendered, and unless another agreement exists in writing between Company and Customer covering such services, in which event the separate agreement shall control.

Validation of Property Ownership. Within this agreement, the signer to this document does validate the ownership to the Property, as well as the septic and/or onsite wastewater treatment system which are the subject of this Agreement. Further, the Customer agrees to defend, indemnify and hold the company harmless from and against any and all demands, actions, claims and damages, including without limitation the reimbursement of the Company’s reasonable attorneys’ fees, arising out of or relating to Customer’s breach of its representation and warranty of ownership of the Property.

Term and Termination. The term of this Agreement shall commence on the date of the Initial Inspection, and shall continue in full force and effect for a period of _____ year(s) (the “Initial Term”). The Agreement shall renew automatically for successive _____ year periods without further action by the parties (“Renewal Term”), unless either party sends written notice to the other party not less than 90 days prior to the expiration of the Initial Term or any Renewal Term. Company may also terminate this Agreement, upon 30 days notice to the Customer, for any of the following reasons: (i) Customer’s failure to pay any service fees or other charges due under this Agreement in a timely manner; (ii) any breach by Customer of any of the provisions contained in this Agreement and the Contract Documents; (iii) Customer’s failure to follow any recommendations made by the Company regarding the management, repair, maintenance or replacement of the septic or onsite wastewater system, or its components.

In the event either the Customer or the Company terminates this Agreement, the Company shall have the right to remove any and all equipment or other materials then located at the Property, within a reasonable time after receipt or delivery of the notice of termination, and Customer agrees to provide the Company with access to the Property to remove such equipment or other materials.

Excluded Services. The scope of services contained in this agreement shall **NOT** include: an initial inspection, review or analysis of the physical or structural condition of the septic or onsite wastewater treatment system or its component parts; and/or any inspection, analysis, review, recommendation or opinion relative to or in connection with the sale or transfer of the Property to any third party to this Agreement. The Customer recognizes and agrees that any third party has no right to rely upon the services performed by the Company pursuant to this Agreement.

Customer Obligation to Responsibly Operate, Maintain and Repair 3/05.

In signing this AGREEMENT, the Customer acknowledges that they are obligated to operate the system according to instructions, to have the system serviced on a regular schedule, perform all maintenance, repairs, replacements, and other services necessary for the proper operation and management of the septic or onsite wastewater treatment system.

Specifically, and without limitation, the Customer understands and agrees that the septic or onsite wastewater treatment system is designed and constructed to treat only a specified volume of water per day, and that an increase in the volume of water used by the system can cause damage to or failure of the system.

The Customer must operate and maintain the system in a manner consistent with the recommendations of the manufacturer, the original designer/contractor, and/or the Company, including maintaining the water volume in the system as directed by these entities.

This Agreement does not require the Servicing Company to, and expressly excludes, any repair and/or replacement of any component part of the septic or onsite wastewater treatment system that is under guarantee by the manufacturer. In the event the Company identifies a defect or other problem in the septic system, or otherwise recommends the performance of repairs, maintenance or any other work associated with the septic system, the Company shall not be required to perform any such additional work, repair or maintenance unless, and until a separate written agreement is prepared. The separate agreement will identify the specific work tasks to be completed, and additional compensation to be paid to the Company, and signed by authorized representatives of the Customer and the Company.

Disclaimer of Warranties and Limitation of Liability. CUSTOMER UNDERSTANDS AND AGREES THAT NEITHER THIS AGREEMENT, NOR ANY INSPECTIONS, REPORTS, OR RECOMMENDATIONS PROVIDED BY THE COMPANY, ARE A GUARANTEE OR WARRANTY OF ANY KIND REGARDING THE SEPTIC SYSTEM, ONSITE WASTEWATER SYSTEM, OR THEIR COMPONENTS, AND ANY SUCH WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLIMED BY THE COMPANY.

CUSTOMER UNDERSTANDS AND AGREES THAT, DUE TO VARIOUS SIZE AND WEIGHT FACTORS AND GROUND CONDITIONS, THE COMPANY OR ITS EQUIPMENT MAY POSSIBLY CAUSE DAMAGE TO (AMOUNG OTHER THINGS) DRIVEWAYS, APRONS, CONCRETE, ASPHALT, SUB-BASE THEROF, LAWNS, SHRUBS, TREES, UTILITIES, SEWERS, AND OTHER PROPERTY (BOTH REAL AND PERSONAL). CUSTOMER AGREES TO ACCEPT FULL AND SOLE RESPONSIBILITY FOR ANY AND ALL DAMAGES, LOSSES, COSTS, LIABILITIES OR EXPENSES ARISING FROM OR RELATING TO DAMAGE OR INJURY TO REAL PROPERTY, FIXTURES, PERSONAL PROPERTY, OR PERSONS.

CUSTOMER SPECIFICALLY UNDERSTANDS AND AGREES THAT THE COMPANY WILL NOT UNDER ANY CIRCUMSTANCES BE LIABLE FOR REPAIR, MAINTENANCE, OR REPLACEMENT OF THE SEPTIC OR ONSITE WASTEWATER TREATMENT SYSTEM, OR ANY OF ITS COMPONENTS, DIMINUTION IN VALUE OF THE PROPERTY, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, PROPERTY OR ECONOMIC DAMAGES ARISING OUT OF OR RELATING TO ANY SEVICES PERFORMED BY THE COMPANY PURSUANT TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE COMPANY'S FAILURE TO INSPECT, IMPROPER INSPECTION, FAILURE TO REPORT, OR IMPROPER REPORTING. THE DAMAGES AND CLAIMS FOR WHICH THE COMPANY SHALL NOT BE LIABLE INCLUDE, BUT ARE NOT LIMITED TO, FAILURE OF THE SEPTIC OR ONSITE WASTEWATER SYSTEM OF ANY KIND.

CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD THE COMPANY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, COSTS, LIABILITES OR EXPENSES

ASSERTED BY ANY THIRD PARTIES TO THIS AGREEMENT RELATING TO ANY WORK, RECOMMENDATIONS OR OTHER SERVICES FURNISHED BY THE COMPANY PURSUANT TO THIS AGREEMENT.

CUSTOMER FURTHER AGREES THAT THE MAXIMUM LIABILITY OF THE COMPANY ARISING OUT OF THIS AGREEMENT, THE SERVICES PERFORMED BY THE COMPANY, OR THE RECOMMENDATIONS MADE BY THE COMPANY, SHALL BE EQUAL TO THE ANNUAL FEE SET FORTH IN THE CONTRACT DOCUMENTS, OR \$500, WHICHEVER IS GREATER. A HIGHER LIMIT OF LIABILITY IS AVAILABLE ONLY WITH AN EXPRESS AGREEMENT IN WRITING AND THE PAYMENT OF AN ADDITIONAL FEE BY THE CUSTOMER.

Integrated Agreement. This Agreement constitutes the entire Agreement between the parties, and there are no Agreements, understanding, restrictions, warranties or representations between the parties other than those set forth herein or herein provided for. All prior or contemporaneous negotiations, Agreements, understandings, statements, representations and warranties are merged into the terms hereof and are superseded hereby.

Choice of Law. The interpretation and enforcement of this Agreement shall be governed by the laws within the State of _____.

Amendment, Modification and Waiver. This Agreement may be modified or amended only in a writing signed by the Company and the Customer.

Third Party Beneficiaries. The rights, responsibilities, and obligations of this Agreement are personal and specific to each of the parties, and shall not be binding upon or inure to the benefit of any third party. The Customer and Company agree that they do not intend, by their performance of this Agreement, to confer any benefit, right, or entitlement upon any third party. The Company assumes no responsibility for any third party's reliance on any of the services, analysis, review, or recommendations provided by the Company pursuant to this Agreement.

Mediation and Arbitration. The Customer and Company agree that, at the sole option of the Company, any claims or controversies, demands or causes of action of any kind or description arising under or relating to this Agreement, or relating to the interpretation of this Agreement, shall be resolved through mediation and then, if necessary, binding arbitration in accordance with the Construction Industry Rules of the American Arbitration Association.