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54-08T	February 07, 2014	20530

DEEP RUN, NC

Received by an e-mail  
Date: **February 07, 2014**  
Solid Waste Section  
Raleigh Central Office

### REAL ESTATE LEASE

THIS REAL ESTATE LEASE ("Lease"), dated November 22, 2013, by and between AL HILL PROPERTIES, LLC, a North Carolina limited liability ("Landlord"), and WASTE INDUSTRIES, LLC, a North Carolina limited liability company ("Tenant").

In consideration of the mutual covenants and agreements set forth herein, the parties hereby agree as follows:

1. **LEASE OF PREMISES.** Landlord hereby leases to Tenant and Tenant hereby agrees to lease from Landlord, for the term hereinafter specified, a portion of the real property with an address of 1478 Bland Howell Road, Deep Run, NC, described on Exhibit B attached hereto and made a part hereof and located between Leslie Stroud Road and Horse Branch Creek such portion of the property identified on attached Exhibit A made a part hereof, which more specifically includes the following real property and improvements as shown on Exhibit A attached hereto and made a part hereof: (a) all of facility identified as the transfer station (the "Transfer Station"), together with sufficient truck turn around area; (b) a 12' x 12' office room and shared bathroom in building known as the "Truck Shop" (the "Office"); and (c) all of the building identified as the MRF, together with an easement for ingress, egress and regress to and from Leslie Stroud Road over, upon and across the driveways, shown on Exhibit A (the easement together with the property described in (a), (b) and (c) are collectively, the "Premises").

The Tenant shall have entry access to the Office by way of a private access entrance. Except for the 12' x 12' Office and shared bathroom in the Truck Shop, the Truck Shop is not included as part of the property being leased under this Lease.

Landlord shall have and does hereby reserve the right of ingress, egress and regress, vehicular and pedestrian, over, upon and across the driveways leading to and from Leslie Stroud Road to and from the grain bins located to the east of the Transfer Station and to and from the Truck Shop and Storage Building identified on Exhibit A. The parties agree that the driveway extending to and from Leslie Stroud Road shall have a gate with each party having a key.

Further, Landlord shall have the right and does hereby reserve the right to use the truck scales located in the staging area north and west of the Transfer Station, together with ingress, egress and regress thereto and also over, upon, across the staging area, north and east of the Transfer Station. Landlord's use of the truck scales will not interfere with the day-to-day operation of the Transfer Station.

2. **TERM.** This Lease will commence as of November 23, 2013 and shall continue for a term of fifteen (15) years (the "Term"), provided, however, after the fifth (5<sup>th</sup>) anniversary of the commencement date of this Lease, Tenant may terminate the Lease at any time upon thirty (30) days advance notice and payment of an amount equal to twelve (12) months' rent. Tenant and Landlord agree that the Term of this Lease may be extended for additional one (1) year periods thereafter on such terms and conditions as Landlord and Tenant may mutually agree.

3. **DELIVERY OF POSSESSION.** Landlord will deliver possession of the Premises to Tenant upon the commencement of the Term as set out in Section 2 of this Lease, subject to the Landlord's right to use the truck scales as set forth in Section 1.

4. **RENT.** Tenant shall pay the Landlord for the use and occupancy of the Premises for Rent Years (hereinafter defined) one through five an annual rental of One Hundred Eight Thousand Dollars (\$108,000.00) per year, which shall be paid in twelve (12) equal monthly installments per year of Nine Thousand Dollars (\$9,000.00) per month in advance on or before the 10th day of each calendar month. Annual rent shall be adjusted at the beginning of the sixth Rent Year and the beginning of the eleventh Rent Year (each an "Adjustment Date") by the difference in the CPI measured for the most recently available twelve month period prior to the Adjustment Date. For purposes hereof, the following definitions shall apply:

(i) "CPI" shall mean the Consumer Price Index for South Urban Consumers, All Items (1982-84 = 100) issued monthly by the Bureau of Labor Statistics of the United States Department of Labor.

(ii) "Rent Year" means consecutive twelve month periods commencing on the first day of the first full calendar month after the Commencement Date.

In the event that the Bureau of Labor Statistics should change the base period (now 1982-84 = 100) of the CPI, or if a substantial change is made in the terms or number of items contained in the CPI, then the CPI shall be adjusted to the figure that would have been arrived at had the manner of computing this CPI in effect at the date of this Lease not been altered. In the event that the CPI is discontinued, Landlord shall select as nearly comparable statistics on the purchasing power of the consumer dollar as are then available, published in a responsible periodical of recognized authority.

Tenant shall pay a late charge of five percent (5.0%) of the rent due for any rent payment received after the fifteenth (15th) of the month. Rent for any portion of the calendar year shall be prorated on a calendar month basis. All rental payments provided for herein shall be payable to Landlord at the Landlord's notice address hereinafter set forth, until written notice of the contrary is received by Tenant.

5. **USE OF PREMISES.** The Premises may be used by Tenant for solid waste transfer, material recovery and other related uses, for vehicle storage and office space related to the foregoing and/or for any other lawful purposes of Tenant.

6. **TAXES.** Landlord will pay all real property taxes on the Premises during the Term. Tenant will pay all ad valorem taxes levied upon its trade fixtures, inventory, equipment and personal property.

7. **TENANT'S PERSONAL PROPERTY.** All of the personal property placed or installed on the Premises by Tenant shall be at the risk of Tenant, and Landlord shall not be liable for any damage to or the destruction of said personal property, or to Tenant, however occurring, unless due to the willful misconduct or negligence of Landlord.

8. **INSURANCE; DAMAGE; CONDEMNATION.** Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease, (a) hazard insurance on the Premises and all improvements and fixtures thereon and thereto insuring the same for its full replacement value; (b) standard fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Premises and on its non-building standard leasehold improvements and all other additions and improvements (including fixtures) made by Tenant; (c) a policy or policies of commercial general liability insurance, including personal injury liability, contractual liability, products and completed operations liability, such insurance to afford minimum protection (which may be effected by primary and/or excess coverage) with a limit of not less than \$3,000,000.00 for personal injury or death and property damage in any one occurrence. Tenant shall provide Landlord with proof of the existence of all required insurance at Landlord's request. Landlord shall be named as an additional insured on such policy. Should the Premises be partially destroyed by fire or other casualty, Landlord will with all due diligence, at its own expense, repair or restore the same so that thereafter the property will be substantially in the same condition as originally delivered to Tenant. In such event, the rent will abate in proportion to the restriction upon use by Tenant. Should the Premises be so extensively damaged by fire or other casualty as to make the Premises unusable by Tenant, then in such event, Tenant may terminate this Lease and the rent will cease and abate from the date of such destruction. In the event the Premises, or any part thereof, is taken in any proceeding by public authorities by condemnation or otherwise, or is acquired for public or quasi-public purposes, Tenant will have the option to terminate this Lease, in which case any unearned rent will be refunded to Tenant. In the event that only a portion of the Premises are taken by condemnation or other proceeding and the remaining part of the Premises will be reasonably usable by Tenant, and if Tenant elects not to terminate this Lease, then the rent will be reduced in the same proportion that the amount of space by which the Premises is reduced by such condemnation or other proceeding. In any such proceeding whereby all or part of the Premises is taken, whether or not Tenant elects to terminate this Lease, all parties will be free to make claim against the condemning party for the amount of the actual, provable damage done to each of them by such proceeding.

9. **WAIVER.** Each party hereby waives any and every claim, including any subrogation claims of its insurers, which arises or may arise in its favor or name and against the other party during the Term of this Lease for any and all of loss of or damage to any of its property located within or upon, or constituting a part of, the Premises which loss or damage is covered by valid and collectible fire and extended coverage policies, to the extent that such loss or damage is recoverable under such insurance policies. Such mutual waivers will be in addition to, and not in limitation of, any other waiver or release contained in this Lease with respect to any loss of or damage to property of the parties hereto.

10. **UTILITIES/SIGNS.** During the Term, Tenant will pay for all electricity, heat, air conditioning, water, sewage, janitorial service, garbage disposal and other utilities or services required by it in the use of the Premises. Tenant shall have the right to install its signage on the Premises.

11. **CONDITION OF PREMISES; IMPROVEMENTS/ALTERATIONS.** Subject to Landlord's representations contained in this Lease and in reliance thereon, Tenant agrees to accept the Premises in its current condition, and any improvements, alterations, and/or remodeling during the Term will be done at the Tenant's expense. During the Term hereof, Tenant may make such improvements and alterations to the Premises necessary to facilitate Tenant's intended use approved by Landlord, such

approval not to be unreasonably withheld. Tenant shall have the right to remove any such alterations or improvements upon expiration or termination of the Term. At the expiration of the Term of this Lease, the Premises shall be in the same condition as at the Commencement Date, reasonable wear and tear, acts of Landlord or its agents, alterations or improvements Landlord has agreed may remain, and casualty excepted.

12. **REPAIRS AND MAINTENANCE.** Tenant will be responsible for maintenance and repairs to the drives and driveways included in the Premises, the roof, building exterior, and structural components of the Transfer Station and the Recycling Building other than replacement and major repair of the HVAC and building systems, and will pay all costs thereof when and as due. Tenant will also be responsible for all normal and routine repairs to and maintenance of the interior of the Transfer Station and the Recycling Building and the HVAC and building systems during the Term, unless such repairs are necessitated by any act or omission of Landlord or Landlord's agents, employees, independent contractors, invitees or licensees. Tenant will pick up all windblown debris on the Premises on a regular basis. Landlord will maintain all landscaping and lawns.

13. **INDEMNIFICATION.** Tenant agrees to indemnify and hold Landlord harmless from and against any and all claims, damages, fees or expenses (including reasonable legal fees incurred) arising by reason of injury to persons or property occurring on or from the Premises to the extent caused by (a) any negligent act or omission or willful misconduct on the part of Tenant or any employee, agent, independent contractor, invitee or licensee of Tenant, or (b) any breach or non-performance of any covenant in this Lease on the part of Tenant. Landlord agrees to indemnify and hold Tenant harmless to the same extent from Landlord's (or any of its agents', employees', independent contractors', invitees' or licensees') negligent acts or omissions or willful misconduct occurring upon the Premises. In no event, will either party be responsible to the other for indirect, special, or consequential damages.

14. **REMEDIES CUMULATIVE; NON-WAIVER.** No remedy available to Landlord or Tenant will be considered exclusive of any remedy, but the same will be distinct, separate and cumulative and will be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute. The failure by either party to enforce its rights hereunder will not be construed to be a waiver of such rights unless such party has waived its rights in writing.

15. **LANDLORD'S REPRESENTATIONS.** Landlord represents and warrants that (a) it has full right, power and authority to lease the Premises upon the terms and conditions herein set forth; (b) Landlord will put Tenant into complete and exclusive possession of the Premises; (c) the Premises will, at the time of delivery of possession by Landlord, be properly zoned for Tenant's use as described in Section 5; and (d) as of the date of this Lease, to the best of Landlord's knowledge, the Premises is in compliance with all applicable federal, state and local statutes, codes, ordinances, rules and regulations, including without limitation, those with respect to (i) hazardous substances and environmental regulations, and (ii) all North Carolina Department of Health and Human Services regulations. This Section 15 is in addition to any other warranties, express or implied, by Landlord or by third parties with respect to the Premises or which otherwise may be created by law.

16. **ENVIRONMENTAL PROVISIONS.** Landlord will indemnify Tenant from and against any losses, costs, including reasonable attorneys fees, damages, or liabilities arising out of any

environmental contaminations of, or the presence of hazardous substances (including petroleum products) or asbestos or lead paint on, the Premises which existed prior to the Initial Term of this Lease (and after commencement of this Lease to the extent caused by Landlord or Landlord's agents, employees, independent contractors, invitees or licensees). Tenant will indemnify Landlord from and against any losses, costs, including reasonable attorneys fees, damages or liabilities arising out of any environmental contamination of, or the introduction of hazardous substances (including petroleum products) on, the Premises by Tenant during the Term of this Lease, it being expressly understood by Landlord that Tenant will have no liability hereunder for contamination migrating to the Premises from other properties, to the extent said contamination is not caused directly or indirectly by Tenant. The covenants contained in this Section 16 shall survive the expiration or termination of this Lease and shall continue for so long as either party, its successors and assigns, may be subject to any expense, liability, charge, penalty or obligation against which a party has agreed to indemnify the other under this Section 16.

17. **DEFAULT.** If Landlord (i) fails to pay when due mortgage payments, ground rent, or any other charge or assessment if required to be paid by Landlord hereunder, the lien of which is prior to this Lease, (ii) fails to perform any of the covenants or conditions of this Lease, or (iii) if any of the representations and warranties in Section 15 of this Lease proves to be untrue (individually or collectively, a "default"), then, if Landlord does not cure any such default within thirty (30) days after written notice has been given to Landlord (or such longer period as may be necessary to cure such default so long as Landlord initiates such cure within such thirty (30) day period and diligently pursues the cure to completion), unless such default in the reasonable opinion of Tenant constitutes an emergency, in which event Landlord will have only a reasonable period of time to cure such default, then Tenant may, at its option, either terminate this Lease or, in addition to any other remedies available at law or equity incur any expense necessary to perform such obligation of Landlord and deduct such expense from the rent first coming due under this Lease until such expense is paid. If Tenant (i) fails to pay when due any rent payments or any other charge or assessment if required to be paid by Tenant hereunder, or (ii) fails to perform any covenants or conditions of this Lease (individually or collectively a "default"), then, if Tenant does not cure such payment default (i) within ten (10) days after written notice has been given to Tenant, (ii) within thirty (30) days after written notice has been given to Tenant (or such longer period as may be necessary to cure such default so long as Tenant initiates such cure within such thirty (30) day period and diligently pursues the cure to completion), or (iii) if the Tenant shall become bankrupt or insolvent, or have filed against it in any Court pursuant to any statute, either of the United States or any state, a petition in bankruptcy or insolvency or for reorganization, or file or have filed against it a petition for the appointment of a receiver or trustee for all or substantially all of the assets of the Tenant and such appointment shall not be vacated or set aside within sixty (60) days from the date of such appointment, or if the Tenant makes an assignment for the benefit of creditors or petitions for or enters into an arrangement, then Landlord may terminate this Lease, in addition to any other remedies available at law or equity.

18. **NOTICES.** Any notices or other communications required or permitted hereunder will be in writing and will be sufficiently given if delivered personally, sent by registered mail or certified mail (return receipt requested), reputable express courier or facsimile. Such notice will be deemed effective when received if it is given by personal delivery, reputable express courier, or facsimile, and will be effective three (3) days after mailing by registered or certified mail, so long as it is actually received within five (5) days (and, if not so received within five (5) days, is effective when actually received) by the parties at

the following addresses:

- (a) If to Landlord, addressed to:  
Al Hill Properties, LLC  
P.O. Box 9  
Deep Run, North Carolina 28525  
Attn: Howard A. Hill
  
- (b) If to Tenant, addressed to:  
Waste Industries, LLC  
3301 Benson Drive, Suite 601  
Raleigh, North Carolina 27609  
Attn: President

19. **SURRENDER.** Upon the termination or expiration of this Lease, Tenant will surrender the Premises, including the improvements made by Landlord described in Section 11, in substantially the same condition or repair as at the beginning of the Term, ordinary wear and tear, and damage by fire or other casualty, and damages caused by Landlord or Landlord's agents, employees, independent contractors, invitees or licensees, excepted. If Tenant shall remain in possession of the Premises or any part hereof after the expiration of the term of this Lease, either with or without Landlord's acquiescence, Tenant shall be deemed a Tenant at will, and such holding over by Tenant shall in no way constitute a renewal of this Lease.

20. **ASSIGNMENT.** Neither party may assign, transfer or encumber this Lease without the consent of the other, such consent not to be unreasonably withheld. Either party may mortgage its interest in the Premises provided that (a) Landlord's mortgagee shall enter into a written subordination, non-disturbance and attornment agreement in usual and customary form with Tenant and (b) Tenant's mortgagee shall enter into a written subordination agreement in usual and customary form subordinating its interest to the lien of Landlord's mortgagee. In connection with Tenant's mortgage, Landlord further agrees to enter into a written consent in usual and customary form consenting to an assignment by Tenant its interest in the Lease.

21. **BINDING EFFECTS.** This Lease will be binding upon and will inure to the benefit of the Landlord and Tenant hereunder and their respective heirs, legal representatives, successors and permitted assigns. The terms "Landlord" and "Tenant" will include, wherever the context admits or requires, singular or plural and the heirs, legal representatives, successors, and assigns of the respective parties.

22. **GOVERNING LAW.** This Lease will be construed and governed by the laws of the State of North Carolina.

23. **ENTIRE AGREEMENT; AMENDMENT.** This Lease contains the entire understanding and agreement of the parties with respect to the subject matter hereof, and may not be modified or changed except in a writing signed by the parties hereto.

24. **SEVERABILITY.** The provisions of this Lease constitute separate and independent

covenants, and the invalidity or unenforceability of one or more provisions hereof will not affect the validity or enforceability of the remaining provisions. If any provision of this Lease is invalid or unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (a) the other provisions hereof will remain in full force and effect in such jurisdiction; and (b) the invalidity or unenforceability of any such provision in such jurisdiction will not affect the validity or enforceability of such provision in any other jurisdiction.

25. **QUIET ENJOYMENT.** Landlord covenants and agrees that Tenant shall and may peacefully and quietly have, hold, possess and enjoy the Premises free from interference by any person or party for the duration of the Term provided herein and for the intended uses and purposes stated herein.

26. **RECORDING.** At Tenant's request, Landlord shall execute in recordable form a memorandum of this Lease for recording in the Lenoir County Registry.

[the next page is the signature page]

IN WITNESS WHEREOF, the parties hereto have caused this Real Estate Lease to be duly executed as of the day and year set out below.

**LANDLORD:**

Al Hill Properties, LLC

By: *Donald A Hill*  
Name: *Donald A Hill*  
Title: *man/ mgr*

**TENANT:**

Waste Industries, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Real Estate Lease to be duly executed as of the day and year set out below.

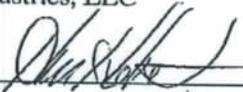
**LANDLORD:**

Al Hill Properties, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TENANT:**

Waste Industries, LLC

By:  \_\_\_\_\_  
Name: Harry Habets  
Title: President

**EXHIBIT A**  
**Premises**



**EXHIBIT B**  
**Legal Description of Premises**

BEING a portion of the following tracts of land located in Lenoir County, North Carolina:

**TRACT 1 (PIN: 3582-90-4519):**

Parcel 1: BEING all of that 12.21 acre tract as shown on a map entitled "Boundary Survey for Onslow Container Service", prepared by Johnny J. Williams Land Surveying, dated February 4, 2002, and recorded in Plat Cabinet 8, Page 133, Lenoir County Registry, said plat being incorporated herein by reference for a more accurate description.

Parcel 2: BEING all of that tract of land containing 2.012 acres as depicted on a map entitled "Boundary Survey for Al Hill Properties, LLC", prepared by Johnny J. William, PLS, dated December 19, 2005, and recorded in Plat Cabinet 10, Page 189, Lenoir County Registry, said plat being incorporated herein by reference for a more accurate description.

**TRACT 2 (PIN: 3581-89-7149):**

BEING all of that tract or parcel of land containing 4.55 acres, more or less, as depicted and delineated on that certain map entitled "Survey for Al Hill Properties, LLC". Trent Township, Lenoir County, Dated May 10, 2011, prepared by Atlantic Surveying, P.A., and being duly recorded in Plat Cabinet 12, Page 294, Lenoir County Registry, said plat being incorporated herein by reference for a more accurate description