

Pharmaceutical Waste Disposal Program Terms and Conditions of Use

You (the "User") have received this RX TRACKERSM system (the "Tracker System") from WM LampTracker, Inc., or an affiliated Waste Management, Inc. company ("WMLT"), pursuant to the WMLT RX TRACKERSM Pharmaceutical Waste Disposal Program (the "Program"). These Terms and Conditions of Use ("Terms of Use") govern (a) the User's participation in the Program, (b) the User's proper use of the Tracker System, and (c) the relationship between the User and WMLT under the Program. If you have any questions regarding these Terms of Use, the Program or the Tracker System, consult www.wmtracker.com or call Waste Management Tracker Services at 1-800-664-1434 for additional information.



5 gallon: Item No. RX5G 2 gallon: Item No. RX2G

USE OF THE TRACKER SYSTEM CONSTITUTES ACCEPTANCE OF THESE TERMS OF USE. THIS IS A LEGALLY BINDING AGREEMENT. PLEASE REVIEW THESE TERMS OF USE CAREFULLY. IF YOU HAVE ANY QUESTIONS ABOUT HOW TO COMPLY, PLEASE CONTACT WMLT FOR FURTHER DETAILS.

- 1. TRACKER SYSTEM COMPONENTS.** In addition to these Terms of Use, the Tracker System includes the following components: (a) bucket with lid; (b) two reclosable plastic bags; (c) a return shipping box (the "Return Box") with a prepaid shipping label (the "Prepaid Label") addressed to the disposal facility; and (d) an instruction sheet titled "Instructions for Use". For purposes hereof, the Instructions for Use and any and all additional instructions that WMLT may send to the User or post on the WMLT web site will be referred to as "Instructions". The User should immediately call Waste Management Tracker Services at 1-800-664-1434 if any of these components are damaged or missing.
- 2. TRACKER SYSTEM RETURNS.** Use of the Tracker System and participation in the Program are conditioned upon the User's acceptance of these Terms of Use. In the event that the User does not agree to accept these Terms of Use, the User may return the Tracker System for a full refund of the purchase price within fifteen (15) calendar days from the order date of the Tracker System (the "Return Period"). During the Return Period, the User must contact Waste Management Tracker Services at 1-800-664-1434 to receive return authorization and instructions. The User shall not receive a refund for returns initiated by the User after the Return Period.
- 3. USER ELIGIBILITY.** In order to participate in the Program, the User: (a) must be a Conditionally Exempt Small Quantity Generator ("CESQG"), or its equivalent, as defined in all applicable federal or state hazardous waste regulations; and (b) must have a valid Certification of CESQG Status ("CESQG Certificate") (a copy of which is attached hereto) on file with WMLT or must have completed the online CESQG certification process in conjunction with the placement of an online order or reorder. If at anytime the User no longer qualifies for CESQG status, the User shall immediately inform WMLT in writing of such status change and shall not use the Tracker System or participate in the Program until such time as the User has regained its CESQG status and has executed an updated CESQG Certificate or completed the online certification process. The User shall have sole and undeleagable responsibility for determining and maintaining its CESQG status. **Use of the Tracker System is not authorized for individual consumers, households or community collection programs.**
- 4. GEOGRAPHICAL LIMITATIONS.** **Use of the Tracker System and participation in the Program are prohibited outside the continental United States and in the States of Arkansas, California, Connecticut, Illinois, Maine, Massachusetts, Minnesota, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont and Virginia (the "Prohibited States").** It is a violation of law to ship the Tracker System to, from or through any of the Prohibited States. WMLT reserves the right to modify the list of excluded and prohibited States at any time.
- 5. DOT COMPLIANCE.** The U.S. Department of Transportation enacts and enforces all hazardous materials transportation law in the United States. It has jurisdiction over all interstate, intrastate and foreign transportation of hazardous materials on aircraft, railcars, vessels, and highway carriers and shippers in the United States. Such hazardous materials regulations are set forth in Title 49 of the Code of Federal Regulations ("DOT Regulations"). In addition to the requirements set forth in these Terms of Use and all Instructions, all materials placed and shipped in the Tracker System must be prepared and shipped in accordance with all applicable DOT Regulations. The DOT Regulations change periodically. It is the User's sole responsibility to comply with the most current standards. Non-compliance with all applicable DOT Regulations could result in civil or even criminal penalties by the appropriate federal agencies.

6. **WARRANTY.** WMLT warrants: (a) the design of the Tracker System complies with applicable performance standards for domestic ground shipment of hazardous pharmaceutical waste; and (b) if the Tracker System is packed, sealed and shipped strictly in accordance with all Instructions, and all applicable DOT Regulations, it is adequate for domestic ground shipment to the facility set forth on the Prepaid Label from the User's authorized place of business under ordinary commercial shipping conditions. Other than as expressly warranted herein, the Tracker System is provided "as is," and WMLT disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose. The User warrants that it will not ship any Non-Conforming Waste (as defined herein) in the Tracker System and that the User will otherwise comply with these Terms of Use, all Instructions, and all applicable DOT Regulations.
7. **WASTE ELIGIBILITY.** The User may only use the Tracker System to pack and ship Pharmaceutical Waste. For these purposes, "Pharmaceutical Waste" means a discarded prescription or over-the-counter human or veterinary drug, including but not limited to a drug as defined in Section 109925 of the Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. § 321(g)(1)). Notwithstanding the foregoing, Pharmaceutical Waste does not include Non-Conforming Waste (as defined herein). Under no circumstances and at no time, may the User pack or ship Non-Conforming Waste in the Tracker System.
8. **NON-CONFORMING WASTE.** Material will be considered non-conforming if: (a) it is not Pharmaceutical Waste; (b) it is a type of Pharmaceutical Waste that any Instructions expressly prohibit from being packed in the Tracker System; (c) it is a Pharmaceutical Waste that is not packed in accordance with any Instructions; (d) it is a controlled substance or precursor as defined or regulated under the Controlled Substances Act or its counterpart in the state(s) where the Pharmaceutical Waste is generated or where the User initiates shipment of the Tracker System; (e) it is a type or quantity of Pharmaceutical Waste that is ineligible for shipment as a "Consumer Commodity" or as "Other Regulated Material – Domestic" ("ORM-D") under all applicable DOT Regulations; (f) it is a Pharmaceutical Waste that is generated or shipped by any one other than a CESQG, or its equivalent, as defined in all applicable federal or state hazardous waste regulations; or (g) it is otherwise not authorized for domestic ground shipment in the Tracker System to the disposal facility set forth on the Prepaid Label under all applicable federal, state and local statutes, ordinances, orders, permits, licenses, rules and regulations. All such materials will be referred to as "Non-Conforming Waste" and are not Pharmaceutical Waste.
9. **INCOMPATIBLE WASTE.** All Pharmaceutical Waste placed and shipped in the Tracker System must qualify to be ground shipped as ORM-D under all applicable DOT Regulations. Under DOT Regulations, certain classes of liquid and solid pharmaceutical waste cannot be mixed or comingled in the same Tracker System. The User should consult Parts 171-180 of the DOT Regulations prior to placing any liquid and solid pharmaceutical waste in the Tracker System to ensure that such materials are compatible. The User has sole responsibility for ensuring that only compatible classes of pharmaceutical waste are packed and shipped in the Tracker System. In addition, the User must ensure that all materials placed in the Tracker System are compatible with the packaging materials and do not react dangerously with each other.
10. **DISPOSAL SERVICES.** Subject to these Terms of Use and the limits set forth herein, upon receipt and acceptance of the Tracker System, WMLT or its designee will: (a) process, burn and/or dispose of the Pharmaceutical Waste in accordance with all applicable federal, state and local laws and regulations; and (b) complete all necessary disposal documentation (collectively, the "Disposal Services").
11. **PACKING AND SHIPPING.** Prior to using the Tracker System, the User should consult the WMLT web site for updates and periodic modifications to the Instructions. The User shall comply with all packing and shipping instructions set forth in all Instructions and all applicable DOT Regulations. Notwithstanding the foregoing, WMLT reserves the right to require the User to comply with more restrictive packing and shipping standards than may be set forth in the DOT Regulations. The User shall only pack Pharmaceutical Waste in the Tracker System, and shall exclude all Non-Conforming Waste. The User must ship the Tracker System from the exact location where the User originally received the Tracker System from WMLT.
12. **ADDITIONAL SHIPPING CHARGES.** All additional shipping charges, including without limitation, any increases imposed by the carrier on the Prepaid Label after purchase of the Tracker System, and increases arising from the User exceeding the shipping weight limitation set forth in the Instructions, shall be the sole responsibility of the User. If the carrier identified on the Prepaid Label will not ship the Tracker System from the User to the disposal facility set forth on the Prepaid Label, for any reason arising from the User's breach of these Terms of Use or violation of any applicable city, county, state or federal law, rule or regulation by the User, then WMLT shall have no obligation to refund any portion of the User's purchase price for the Tracker System.

13. **USER RESPONSIBILITIES.** It is the User's sole and undelegable responsibility to correctly classify its Pharmaceutical Waste pursuant to all applicable laws, rules and regulations, and to ensure that no Non-Conforming Waste is packed or shipped in the Tracker System. While WMLT may offer guidance to the User on waste classifications, such guidance shall not be deemed as legal advice and WMLT disclaims any and all warranties, express or implied, with respect thereto and shall have no liability to the User or its affiliates with respect to such guidance. In addition, it is the User's sole responsibility to ensure that its use of the Tracker System complies not only with all applicable DOT Regulations, but also with any variations that WMLT has set forth in these Terms of Use and the Instructions.
14. **REDISTRIBUTION.** The User is prohibited from redistributing the Tracker System and from using the Tracker System at any location other than the specific location where the User originally received the Tracker System from WMLT.
15. **BREACH AND NONCOMPLIANCE.** If WMLT or its designee determines that the Tracker System contains Non-Conforming Waste, WMLT or its designee, may, at its sole discretion, and at the User's sole cost and expense: (a) reject the Tracker System and return it to the User; (b) return the Non-Conforming Waste to the User; or (c) process the contents of the Tracker System and charge the User for any and all costs associated with processing the Non-Conforming Waste.
16. **CHARGES FOR BREACH AND NONCOMPLIANCE.** WMLT reserves the right to bill the User additional amounts for any of the following: (a) any costs associated with shipping, handling and destroying/disposing of any Non-Conforming Waste; (b) any costs associated with the User shipping materials in the wrong Tracker System or from the wrong site location; (c) additional shipping charges beyond the amounts prepaid for any Prepaid Label; (d) any costs or expenses incurred by WMLT other than the usual and ordinary costs of WMLT in the performance of the Disposal Services; (e) any costs related to changes in applicable law occurring after the date of purchase of the Tracker System; or (f) costs associated with any failure by the User to comply with these Terms of Use or any Instructions.
17. **EXPIRED AND UNUSED TRACKER SYSTEMS.** An expiration date (the "Expiration Date") is printed on the Return Box. The Tracker System must be received by WMLT or its designee no later than the Expiration Date. After the Expiration Date, WMLT has no obligation to receive or perform Disposal Services for an expired Tracker System. WMLT has no obligation to give a credit or refund for an unused or expired Tracker System. WMLT reserves the right to refuse receipt of an expired Tracker System. In the event that WMLT incurs any costs and expenses associated with the User's use of an expired Tracker System, WMLT reserves the right to bill the User for any and all such costs and expenses.
18. **TITLE TO TRACKER SYSTEM.** Subject to the limits set forth in these Terms of Use, until WMLT or its designee receives and accepts the Tracker System: (a) title to and risk of loss of the Tracker System and its contents will remain with the User; and (b) the User is solely responsible for the contents of the Tracker System. WMLT will never take title to Non-Conforming Waste, and title to such waste shall remain with the User.
19. **INDEMNITY.** WMLT will indemnify the User from and against any and all claims and damages, causes of action, costs, reasonable attorneys' fees, losses, or liability to the extent caused by WMLT's breach of these Terms of Use or violation of law by WMLT. The User will indemnify, defend (with counsel of WMLT's choosing) and hold harmless, WMLT and its directors, shareholders and employees from and against any and all claims and damages, causes of action, costs, reasonable attorneys' fees, losses, or liability arising from the use, packing and/or shipping of the Tracker System, any contents packaged in the Tracker System, breach of these Terms of Use or violation of any applicable city, county, state or federal law, rule or regulation by the User or any carrier shipping the Tracker System. This Section will survive any termination of the parties' relationship.
20. **LIMITATION ON LIABILITY.** Other than the obligations of WMLT set forth in these Terms of Use: (a) neither WMLT nor its suppliers, officers, agents, affiliates, shippers, carriers, contractors and employees shall be responsible or liable with respect to any use or misuse of the Tracker System, under any theory of contract, negligence, strict liability or other theory; (b) in no event shall WMLT be liable or responsible for any matter beyond WMLT's reasonable commercial control; (c) in no event shall WMLT be liable to the User for any amount in excess of the amount received by WMLT for the purchase of this Tracker System; and (d) in no event shall WMLT be liable or responsible for any acts or omissions of the carrier or facility specified on the Prepaid Label or their owners, operators, officers, employees, agents, affiliates, or contractors.

21. GOVERNING LAW AND VENUE. These Terms of Use will be interpreted in accordance with the laws of the State of Texas, without regard to its choice of law provisions, as though all acts and omissions occurred in the State of Texas. All disputes arising under these Terms of Use will be brought in a state or federal court in Houston, Texas, and, in such instance, the User: (a) waives any objection which it might have now or hereafter to the exclusive venue of any such litigation, action or proceeding; (b) irrevocably submits to the exclusive jurisdiction of any such court; (c) waives any claim or defense of inconvenient forum; and (d) waives any right to trial by jury of any claim or cause of action by or against WMLT.
22. FORCE MAJEURE. WMLT shall not be in default for its failure to perform or delay in performance caused by events or significant threats of events beyond its reasonable control, whether or not foreseeable, including, but not limited to, strikes, labor trouble, riots, imposition or changes of laws or governmental regulations, fires, acts of war or terrorism, acts of God, the inability to obtain equipment, and acts or omissions of shippers, carriers or contractors, and WMLT shall be excused from performance during the occurrence of such events.
23. ENTIRE AGREEMENT. These Terms of Use constitute the entire agreement between the User and WMLT with respect to use of the Tracker System and participation in the Program, superseding all prior communications, agreements or correspondence between the parties or their representatives related to the Tracker System and the Program; provided, however, that the obligations which apply to the User set forth in all Instructions are hereby incorporated herein. If any provision in these Terms of Use is determined to be illegal, invalid or unenforceable, the remainder of these Terms of Use will nonetheless survive and govern the rights and obligations of the parties hereto. No provision of these Terms of Use will be deemed waived, amended, or modified by either party unless such waiver, amendment, or modification is in writing signed by the party against whom enforcement is sought. Any additional or different terms or conditions contained in any document furnished by the User are hereby objected to and rejected by WMLT. No representation or statement made by any employee, agent, or representative of WMLT shall be binding on WMLT to the extent such representation or statement differs from these Terms of Use.

**FOR ASSISTANCE, CONTACT WASTE
MANAGEMENT TRACKER SERVICES
AT 1-800-664-1434**

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