

WASTECOLLECTION.COM CONTRACT TERMS & CONDITIONS

1. Definitions and interpretation

1.1 In this Agreement, unless the context otherwise requires, the following words have the following meanings:

"**Commencement Date**" as set out in Section D ;

"**Duty of Care**" the duty of care for the disposal of waste set out in s34 of the Environmental Protection Act 1990 and the Environmental Protection (Duty of Care) Regulations 1991 (as amended);

"**Equipment**" the equipment specified in section B to be provided by Wastecollection.com and any replacement of or addition to it;

"**Excluded Waste**" any waste, substance or material which is not Waste and any waste which is notified to the Customer by Wastecollection.com as waste which Wastecollection.com cannot collect because it is not accepted at the site at which it is to be disposed of;

"**Good Operating Practice**" the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected to be exercised by a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances and conditions;

"**Initial Term**" the initial term referred to in clause 2;

"**Minimum Quantity of Waste**" the quantity specified in Section A relating to each Waste Collection Period;

"**Maximum Quantity of Waste**" the quantity specified in Section A relating to each Waste Collection Period;

"**Law**" any applicable legislation, EU regulation or directive having direct effect, or provision of common law, in each case having the force of law and any change to it then in force;

"**Notice**" includes any notice, demand, consent or other communication;

"**Price**" the price for the services set out in Section B;

"**Renewed Term**" a renewed term referred to in clause 3;

"**Services**" the collection and disposal of Waste and hire of Equipment as more particularly described in Section B;

"**Site**" the site(s) details of which are set out in Section C

"**Hazardous Waste**" as defined by the Hazardous Waste Regulations 2004;

"**Term**" the Initial Term and any Renewed Term;

"**Vehicle**" any vehicle, plant or equipment used by or on behalf of Wastecollection.com to deliver or collect the Equipment to or from the Site, or to collect Waste from the Site;

"**Waste**" the type(s) of waste more particularly described in schedule 1 together with any other types of waste agreed in writing by Wastecollection.com ;

"**Waste Delivery Period**" each period during the Term starting from the Commencement Date as set out in Section D;

"**Waste Description**" the description of the Waste set out in schedule 1 and given by the Customer to Wastecollection.com in accordance with the Duty of Care;

"**Waste Transfer Note**" the waste transfer notes completed by the Customer and transferred to Wastecollection.com to comply with the Duty of Care;

1.2 In this Agreement, unless the context otherwise requires:

(a) words in the singular include the plural and vice versa and words in one gender include any other gender;

(b) a reference to a statute or statutory provision includes any subordinate legislation made under it, any repealed statute or statutory provision which it re-enacts (with or without modification), any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it;

(c) a reference to any party includes its successors in title, permitted assigns, employees, agents and sub-contractors and clauses and schedules are to clauses and schedules of this Agreement and references to sub-clauses and paragraphs of the clause or schedule in which they appear; and

(d) the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement.

"**Weight Allowance**" all unit prices are quoted on the basis of a maximum allowance of 80 kg per cubic metre of waste.

2. Duration

Subject to termination as set out in clause 14, this Agreement shall come into effect on the Commencement Date and shall remain in effect for 1 year, which shall be the Initial Term. At the end of the Initial Term, or any subsequent term of it subject to renewal under this clause ("**a Renewed Term**") this Agreement shall be renewed automatically for a period of 1 year.

3. Obligations of Wastecollection.com

3.1 Wastecollection.com shall provide the Services. Time shall not be of the essence in the performance of its obligations under this Agreement.

3.2 Notwithstanding any times or dates given for performance of the services Wastecollection.com may make such changes to the times or dates of performance as may be necessary due to its reasonable Operational requirements and shall where possible give the Customer reasonable notice of such changes. If such changes are made but as a result of any act or omission of the Customer Wastecollection.com incurs additional costs; Wastecollection.com may charge the Customer accordingly.

3.3 Wastecollection.com may sub-contract performance of the whole or any part of its obligations under this Agreement.

3.4 In performing the Service, Wastecollection.com shall comply with:

- (a) all special site conditions and safe working procedures notified in writing by the Customer to Wastecollection.com in accordance with the Customer's obligations under Law; and
- (b) Good Operating Practice.

3.5 Wastecollection.com shall dispose of the Waste in accordance with the Duty of Care and Law.

4. Access for delivery and collection of Equipment and Waste

4.1 Wastecollection.com shall deliver the Equipment to the Customer at the Site in the quantity and for the period specified in Section B.

4.2 The Customer shall ensure that there is suitable access to the Site and that there are adequate facilities for maneuvering the Vehicle.

4.3 The driver of the Vehicle may in his absolute discretion refuse delivery of the Equipment if he believes that access to the Site or maneuvering facilities are unsafe or likely to cause damage to the Vehicle.

4.4 The Customer shall ensure that all persons acting for or on behalf of Wastecollection.com entering the Site shall be safe for the purposes of their visit.

4.5 The Customer shall grant Wastecollection.com such access to the Site as may be required by Wastecollection.com without notice (if necessary) for the purpose of moving or maintaining the Equipment and performing the Services.

5. Equipment

5.1 The Equipment shall be deemed to be in good working order and condition (except for defects not discoverable by a reasonable examination) if the Customer has not notified Wastecollection.com within 3 working days of delivery of the Equipment.

5.2 The risk of loss or damage to the Equipment shall pass to and remain with the Customer from the earlier of:

- (a) the delivery of the Equipment to the Site;
- (b) the Customer receiving notice from Wastecollection.com that access to the Site or the facilities for unloading or maneuvering any Vehicle are unsafe or inadequate; or
- (c) the Customer instructing Wastecollection.com to delay delivery for any reason.

5.3 The Equipment shall remain the property of Wastecollection.com and the Customer shall have no rights to it other than those set out in this Agreement.

5.4 The Customer shall:

- (a) Adequately insure the Equipment to its full replacement value;

(b) Be solely responsible for the safety, security and protection of the Equipment while it is at the Site;

(c) Not damage, alter, fix anything to or overload the Equipment;

(d) Not purport to charge, sub-let or part with possession of any Equipment;

(e) Not deposit in the Equipment any Waste not conforming to the Waste Description;

(f) Not burn any matter in the Equipment;

(g) Not move the Equipment; and

(h) At reasonable times allow Wastecollection.com or it's agents to gain access to the Equipment to empty or replace it.

5.5 If the Equipment is lost, stolen or damaged (ordinary wear and tear excepted) due to the failure of the Customer in full or in part the Customer shall indemnify Wastecollection.com in respect of such loss including the cost of repairs and all other expenses.

5.6 The Customer shall be responsible for the siting and use of the Equipment. Despite this, Wastecollection.com may advise the Customer on the siting of the Equipment but without accepting responsibility.

5.7 Nothing in this Agreement shall require Wastecollection.com to place the Equipment on a highway (whether public or private) or in a public place unless the Customer has obtained all permissions required and shall indemnify Wastecollection.com in respect of any loss or costs arising from breach of this clause.

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6. Description and Ownership of Waste

6.1 In relation to the Waste, the Customer warrants that:

(a) It has complied with the duty of care provisions of the Environmental Protection Act 1990 (and all relevant regulations and guidance notes issued under it);

(b) The Waste Description is true, complete and accurate in all material respects. The Customer shall be wholly responsible for the Waste Description despite any waste analysis carried out or which could have been carried out by Wastecollection.com;

(c) Unless otherwise agreed in writing by Wastecollection.com the Waste does not contain any Hazardous Waste;

(d) The Waste does not contain any explosive material or hazardous concentrations of any noxious, poisonous or polluting substance; and

(e) it is the owner of the Waste.

6.2 If the Customer finds out that the Waste Description is inaccurate it shall forthwith notify Wastecollection.com in writing.

6.3 If the Customer is notified under clause 6.2 or finds out that the Waste Description is different from that notified initially to it Wastecollection.com may (without prejudice to any other right or remedy available to it):

(a) Suspend performance of the Services;

(b) Adjust the Price; or

(c) Dispose of the Waste at an alternative site licensed to take such Waste at the Customer's expense.

6.4 Where any Hazardous Waste is included in this Agreement, the Customer shall comply fully with the Hazardous Waste Regulations 2004.

7. Collection and disposal of Waste

7.1 The Customer shall make available for collection during each Waste Collection Period not less than the Minimum Quantity of Waste.

7.2 If the Waste made available for collection in any Waste Collection Period is less than the Minimum Quantity of Waste the Customer will be charged as if the Minimum Quantity of Waste had been made available for collection.

7.3 Wastecollection.com may at its sole discretion provide the Services for a quantity of Waste greater than the Minimum Quantity of Waste in which case the Customer shall be charged in accordance with Section B.

7.4 Wastecollection.com may refuse to deal with any Excluded Waste and accepts no liability for the consequences of such refusal.

7.5 Wastecollection.com shall acquire title to the Waste when collected from the Customer.

7.6 Title to, risk of loss and liability for any Excluded Waste shall remain with the Customer. The Customer shall indemnify Wastecollection.com against all costs and expenses connected with the collection of Excluded Waste.

7.7 The Customer shall comply with its record keeping obligations under the Duty of Care and shall provide Wastecollection.com with a true copy of such record on demand.

7.8 Unless otherwise agreed in writing by Wastecollection.com, nothing in this Agreement shall require it to collect loose Waste from the Site.

7.9 The Customer shall be solely responsible for the proper supervision of loading and collection of Waste and Wastecollection.com may refuse to provide the Services if it reasonably considers that the provision of the Services may place at risk any person, Vehicle, Equipment or other property.

7.10 Where no service tickets are provided by Wastecollection.com the Customer agrees that the records of Wastecollection.com will be proof of the Service provided. If the Customer requires service tickets it shall ensure that an authorised person is available at the premises to sign for the Services.

8. Price and Payment

8.1 In consideration of the provision of the Services, the Customer shall pay to Wastecollection.com the amounts set out in Section B, subject to variation as set out in clause 9.

8.2 Wastecollection.com may make an additional charge for Services provided at the request of the Customer at times outside of normal working periods or which at the request of the Customer vary from the scheduled collection times.

8.3 Subject to any special terms agreed in writing between Wastecollection.com and the Customer, Wastecollection.com may invoice the Customer on or at any time after performance.

8.4 All payments to Wastecollection.com shall be made against Wastecollection.com's invoices which shall be presented at the end of each calendar month during the period of the provision of the Services.

All payments shall be made by the Customer within 30 days following the receipt by the Customer of the Wastecollection.com invoice save that payment of all outstanding invoices shall become due on the happening of any event set out in clause 14.2.

8.5 Payment shall be made in full by the Customer in accordance with this Agreement and the Customer shall not set-off any payment against any other sums claimed.

8.6 Time of payment shall be of the essence and Wastecollection.com may charge the Customer and the Customer shall pay interest on overdue payments accruing from day-to-day at the rate of 4% over and above the base rate from time to time of National Westminster Bank plc.

8.7 All Prices are exclusive of Value Added Tax (and Landfill Tax where specified) which shall be charged by Wastecollection.com and be payable by the Customer at the appropriate rate.

9. Price adjustments

9.1 Wastecollection.com may increase the charges and rates set out in section B to compensate for any increase in costs caused by any of the following:

- (a) An increase in the Index of Retail Prices (all items) as published by the Central Statistical Office (or any replacement of that index);
- (b) An increase in transportation costs;
- (c) An increase in waste disposal costs;
- (d) Changes in Law applicable to the Services which shall include changes in taxes, duties, fees, landfill licensing or other relevant Government charges.
- (e) The weight allowance for the service is exceeded. The maximum allowance is 80 kg per cubic metre of waste.

9.2 Wastecollection.com will provide written notice to the customer at no less than 14 days prior to any price increase becoming effective.

10. Liability and Indemnity

10.1 Except as expressly provided in this Agreement, all terms implied by Law in relation to the provision of the Services by Wastecollection.com are excluded to the fullest extent permitted by Law.

10.2 No statement, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement or communication or made verbally by Wastecollection.com shall be

construed to enlarge, vary or override in any way any of the provisions of this Agreement.

10.3 Wastecollection.com accepts liability for death or personal injury to the extent that it results from its negligence.

10.4 Wastecollection.com shall not be liable to the Customer for any breach of this Agreement caused directly or indirectly by any act or omission of the Customer.

10.5 Wastecollection.com accepts no liability for any loss of or damage to any property of the Customer or property otherwise under its control.

10.6 Wastecollection.com shall not be liable to the Customer for any direct or indirect or consequential loss (including, without limitation, economic loss or loss of profits or goodwill) or for any damage or expense of any nature in connection with the provision of the Services.

10.7 In substitution for all rights which the Customer would or might have had but for this Agreement Wastecollection.com undertakes that if within 7 days of performance of the Services it appears that such Services have been performed defectively or not at all Wastecollection.com will at its sole discretion either re-perform the Services or credit the Customer with the proportionate part of the Price. Any claim made under this clause shall be notified within 48 hours of the time when such defect was or might reasonably have been discovered.

10.8 Except as specifically provided elsewhere in this Agreement, or as required by Law Wastecollection.com's liability to the Customer for any act or omission shall be limited to the lower of the annual value of the Agreement.

10.9 Without prejudice to any other rights or remedies available to Wastecollection.com the Customer shall fully indemnify Wastecollection.com against all losses and costs arising from:

- (a) Any breach of the Customer's obligations under this Agreement;
- (b) Any act or default of the Customer;
- (c) Any breach of Law by the Customer.

10.10 The provisions of this clause 10 shall survive the termination of this Agreement howsoever caused.

11. Insurance

The Customer undertakes and agrees to take out and maintain insurance cover of a minimum of £5,000,000 to cover its liabilities under this Agreement and agrees to produce at the request of Wastecollection.com a copy of the insurance policy or policies and the relevant renewal receipts for inspection by Wastecollection.com.

12. Force majeure

Wastecollection.com shall not be deemed to be in breach of this Agreement, or otherwise be liable to the other, by reason of any delay in performance or non-performance of any of its obligations under this Agreement to the extent that such delay or non-performance is due to any cause beyond its reasonable control including but not limited to the acts, defaults or omissions of suppliers or sub-contractors or strike, lockout or other form of industrial action or unavailability of Equipment.

13. Suspension of Services

13.1 Wastecollection.com may suspend performance of the Services if at any time it has reasonable cause to believe that the Customer will not be able to meet its obligations under this Agreement. Any

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suspension of Services shall not affect the rights of Wastecollection.com to payment.

14. Termination

14.1 Either party to this Agreement may terminate it by giving to the other 3 months notice in writing to expire at the end of each anniversary of the Commencement Date.

14.2 Wastecollection.com may by notice in writing immediately terminate this Agreement if the Customer shall:

- (a) Expressly or impliedly repudiate this Agreement by refusing or threatening to refuse to comply with any provision of this Agreement;
- (b) Be incompetent, guilty of gross misconduct and/or any serious or persistent negligence in its obligations under this Agreement;

(c) Commit a breach of this Agreement which in the case of a breach capable of remedy shall not have been remedied within 30 days of the receipt of a notice from Wastecollection.com identifying the breach and requiring its remedy; or

(d) be unable to pay its debts or enters into compulsory or voluntary liquidation (other than for the purpose of effecting a reconstruction or amalgamation in such manner that the company resulting from such reconstruction or amalgamation if a different legal entity shall agree to be bound by and assume the obligations of the Customer) or compounds with or convenes a meeting of its creditors or has a receiver or manager or an administrator appointed or ceases for any reason to carry on business or takes or suffers any similar action which in the opinion of waste means that the Customer may be unable to pay its debts.

14.3 Wastecollection.com terminates the Agreement under the provisions of this Clause the Customer will pay to Wastecollection.com all costs, losses, claims, damages and expenses incurred by Wastecollection.com as a result of the Customer's breach and the consequent termination.

14.4 Termination of this Agreement shall be without prejudice to any rights or liabilities of either party, which may have accrued up to the time of termination.

14.5 At the sole discretion of Wastecollection.com where the contract between Wastecollection.com and the customer is prematurely terminated by the Customer, with/without any breach of confidentiality, Wastecollection.com shall be entitled to a sum of liquidated damages amounting to 65% of the outstanding price accruable for the unexpired period to the natural end date of the agreement-such sum representing a fair compensation of time, effort, up-front costs and industry invested and it is agreed that this clause does not operate as a penalty clause and is effective in law.

15. Assignment

15.1 This Agreement shall be binding on and endure for the benefit of the successors in title of the parties but, except as set out in clause 15.2, shall not be assignable by any party without the prior written consent of the other.

15.2 Wastecollection.com may assign the benefit of this Agreement.

16. Confidentiality

16.1 The parties shall at all times keep confidential information acquired as a result of the Agreement. This obligation shall not apply to information which either party is required to disclose under Law or where required by regulatory agencies or where necessary required for the performance of professional services.

16.2 In particular subject to 16.1 for the duration of this agreement and for a period in any event not exceeding 6 years from the date of disclosure by Wastecollection.com to the Customer of the agreed price the Customer:

- (a) Agrees to keep all price sensitive information confidential;
- (b) Agrees to keep all records of the price sensitive information in safe custody;
- (c) Agrees not to permit or disclose to third parties orally or in writing the details of the pricing arrangement without the written consent obtained from a Director of Wastecollection.com;
- (d) Agrees not to make any use the price sensitive information or any adaptation or variation of the same without the written consent obtained from a Director of Wastecollection.com;
- (e) Agrees to return to Wastecollection.com all copies of the terms and conditions of the agreement within 1 month of a written request from Wastecollection.com;

17. General

17.1 This Agreement together with any documents referred to in this Agreement sets out the entire agreement and understanding between the parties in respect of the subject matter of this Agreement.

17.2 The Customer acknowledges that it has entered into this Agreement in reliance only upon the representations, warranties and promises specifically contained or incorporated in this Agreement and, save as expressly set out in this Agreement, Wastecollection.com shall have no liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.

17.3 To the extent that any provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

17.4 No purported variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each of the parties.

17.5 The rights, powers and remedies conferred on any party by this Agreement and remedies available to any party are cumulative and are additional to any right, power or remedy which it may have under general law or otherwise.

17.6 Either party may, in whole or in part, release, compound, compromise, waive, or postpone, in its absolute discretion, any liability owed to it or right granted to it in this Agreement by the other party without in any way prejudicing or affecting its rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed.

17.7 No single or partial exercise, or failure or delay in exercising any right, power or remedy by any party shall constitute a waiver by that party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under this Agreement or otherwise.

17.8 Unless expressly provided in this Agreement, no term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

18 Notices

18.1 Any notice to a party under this Agreement shall be in writing signed by or on behalf of the party giving it and shall, unless delivered to a party personally, be left at, or sent by prepaid first class post or prepaid recorded delivery (but not, for the avoidance of doubt, or facsimile or e-mail) to the address of the party as set out in Section A of this Agreement or as otherwise notified in writing from time to time.

18.2 Notices shall be deemed to be received on the working day following posting or, where delivered by hand, within 2 working hours on the same day.

18.3 A party shall not attempt to prevent or delay the service on it of a notice connected with this Agreement.

19 Governing law and jurisdiction

19.1 This Agreement shall be governed by and construed in accordance with English Law.

19.2 Each of the parties irrevocably submits for all purposes in connection with this Agreement to the exclusive jurisdiction of the courts of England.