

Waste Management Services

1. Interpretation

The following definitions apply in these Conditions.

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services by WWL, in accordance with clause 5 and as set out in the Order.

Conditions: these terms and conditions as amended from time to time in accordance with clause 8.5.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Customer: the person or company contracting with WWL for the provision of Services.

Duty of Care: the Duty of Care under section 34 of the Environmental Protection Act 1990.

Equipment: the materials, equipment and other property of WWL deposited by WWL.

Excluded Waste: any waste which does not comply with the waste description in the Waste Transfer Note.

Order: the order or contract between WWL and the Customer (together the "parties") for Services as set out in email correspondence between the parties, in accordance and together with these Conditions.

Service Location: the Customer's premises or facilities from where the Waste Materials are to be collected.

Services: the contracted waste management services supplied by WWL to the Customer as set out in the Order and Specification (if any), including but not limited to (i) the removal of Waste Materials and any subsequent treatment, disposal or recovery, (ii) the supply of any Equipment for the use by the Customer as part of the service in (i) above, and (iii) processing, transportation, decontamination and any other handling operation associated with (i) and (ii) above.

Specification: any description or specification of the Services provided in the Order.

Waste Materials: the Customer's waste materials as further described in the Waste Transfer Note, for collection and disposal by WWL.

Waste Transfer Note: as the controlled waste transfer note provided to WWL separately.

WWL: Westminster Waste Limited registered in England and Wales with company number 07465506.

2. Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.

2.3 The Order shall only be deemed to be accepted when WWL issues written acceptance at which point and on which date the Order and these Conditions shall come into existence (**Commencement Date**).

2.4 These Conditions apply to the Order to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation or estimate given by WWL shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue. For the avoidance of doubt, any quotation or estimate given by WWL may be withdrawn at any time before acceptance of an Order and shall be deemed to be withdrawn if an Order is not received within 30 days of its date.

3. Supply of services

3.1 WWL shall supply the Services at the Service Location to the Customer in accordance with the Specification (if applicable) in all material respects.

3.2 If any performance dates are specified in the Order, WWL shall use all reasonable endeavours to meet these, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.3 WWL reserves the right to amend the Order or any Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and WWL shall notify the Customer in any such event.

3.4 WWL warrants to the Customer that the Services shall be provided using reasonable care and skill.

4. Customer's obligations

4.1 The Customer shall:

4.1.1 ensure that the terms of the Order and any information it provides in relation to the Specification are complete and accurate;

4.1.2 co-operate with WWL in all matters relating to the Services;

4.1.3 provide WWL, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Customer's premises, office accommodation and other facilities as reasonably required by WWL;

4.1.4 provide WWL, in a timely manner, with such information and materials as WWL may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

4.1.5 prepare the Customer's premises for the supply of the Services along with providing adequate traffic management services, as required. The Customer shall be liable for any damages resulting from inadequate traffic management services. The Customer shall notify WWL in advance if any special traffic management measures are necessary due to the nature of its premises or operations;

4.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

4.1.7 keep all Equipment of WWL at the Customer's premises in safe custody at its own risk, maintain the Equipment in good condition until returned to WWL, and not dispose of or use the Equipment other than in accordance with WWL's written instructions and authorisation;

4.1.8 notify WWL of any significant changes in the Waste Materials specified in the Waste Transfer Note that may affect the current collection method and disposal route;

4.1.9 inform WWL of all health and safety and security requirements that apply at any of the Service Locations;

4.1.10 where relevant, ensure that WWL's Equipment is safely and legally loaded for transportation (including compliance with weight and volume limits), and that only conforming items are loaded. The Customer shall be liable for any damages, losses, claims, fines or penalties incurred by WWL as a result of the Customer's failure to comply with this clause 4.1.10, including but not limited to overweight loads and non-conforming items. Where WWL deems that WWL's Equipment is not loaded safely or contains non-conforming items, the Customer must rectify the situation as specified by WWL. WWL reserves the right to charge a penalty for any losses incurred as a result of the Customer's non-compliance and the right to refuse collection until the Equipment is loaded safely and contains only

conforming items. The Customer shall indemnify WWL against any claims, fines or penalties arising from the Customer's failure to comply with this clause 4.1.10;

4.1.11 ensure that the Waste Materials (whether contained in drums, bales, bags or other containers) are lawfully and properly labelled and packaged to enable them to reach their final point of disposal without escape; and

4.1.12 immediately notify WWL in writing about any allegation of damage to WWL's Equipment.

4.2 The Customer warrants that:

4.2.1 the Waste Transfer Note contains an accurate description of the nature and characteristics of the Waste Materials to enable WWL to safely and lawfully manage the same;

4.2.2 it is the sole owner of the Waste Materials;

4.2.3 WWL's Equipment is not to be used by anyone other than the Customer or its employees, if relevant, and only where such persons have received appropriate safety briefings;

4.2.4 WWL's Equipment is not to be used for advertising other than that of WWL as regards name, logo and contact details; and,

4.2.5 no Excluded Waste is or will be contained in waste for collection by WWL.

4.3 If WWL's performance of any of its obligations under the Order is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

4.3.1 without limited or affecting any other right or remedy available to it, WWL shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays WWL's performance of any of its obligations;

4.3.2 WWL shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from WWL's failure or delay to perform any of its obligations as set out in this clause 4.3;

4.3.3 the Customer shall reimburse WWL on written demand for any costs or losses sustained or incurred by WWL arising directly or indirectly from the Customer Default;

4.3.4 WWL shall be allowed an extension of time to perform its obligations caused by the Customer Default; and

4.3.5 WWL shall be entitled to receiving payment of the Charges despite any such prevention or delay.

5. Charges and payment

5.1 In consideration for the provision of the Services, the Customer shall pay WWL the Charges and any applicable surcharges in accordance with this clause 5.

5.2 WWL will review prices annually around April each year however WWL reserves the right, at any time, to impose surcharges to reflect cost increases outside its control including, but not limited to, disposal costs, fuel costs and legislation. WWL will give at least 30 days' notice to the Customer in writing of any such changes.

5.3 The Charges are for the waste type, weight and/or volume originally agreed between the parties.

5.4 All amounts payable by the Customer under the Order are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Order by WWL to the Customer, the Customer shall, on receipt of a valid VAT invoice from WWL, pay to WWL such additional amounts in

- respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.5 In the event that any surcharges are incurred which may include, without limitation, if the Waste Materials do not comply with the description in the Waste Transfer Note, either by being above weight or falling outside their description, or if WWL is subject to any waiting time, WWL reserves the right to invoice the Customer retrospectively for any additional surcharges or to cancel or suspend the Services.
- 5.6 WWL shall invoice the Customer weekly in arrears.
- 5.7 The Customer shall pay each invoice submitted by WWL:
- 5.7.1 within 30 days of the date of the invoice or in accordance with any credit terms agreed by WWL and confirmed in writing to the Customer; and
- 5.7.2 in full and cleared funds to a bank account nominated in writing by WWL,
- and, in respect of invoice payment, time shall be of the essence of the Order.
- 5.8 If the Customer fails to make a payment due to WWL under the Order by the due date, then, without limiting WWL's remedies, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 5.9 All amounts due under the Order shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 5.10 Where payment is not made on time, and without limiting any other remedies or rights that WWL may have, WWL may cancel or suspend further Services until outstanding amounts have been paid in full.
- 5.11 No refunds can be issued once a skip, drums, bales, waste bags or other container has been delivered to the Service Location.
- 5.12 Skip road licence fees paid to the appropriate councils will be non-refundable.
- 6. Equipment**
- 6.1 The Equipment shall remain the property of WWL at all times. The Customer accepts responsibility for any loss of or damage to the Equipment (except where the loss or damage is as a direct result of WWL's negligent handling of the Equipment and its content) while in the Customer's custody and control.
- 6.2 The Customer shall notify WWL immediately (by telephone and then confirmed in writing) if any Equipment is lost, damaged or defaced in any way.
- 6.3 The Customer shall ensure that any item of Equipment placed in a street, highway or public thoroughfare is adequately lit and coned at all necessary times.
- 6.4 The Customer grants WWL and its employees the irrevocable right and licence to enter any premises of the Customer at any time with or without vehicles and with or without notice for the purpose of accessing and/or removing Equipment.
- 6.5 The Customer shall provide unobstructed and safe access for collection of the Equipment for by WWL. If the Equipment is inaccessible so that any collection cannot be made, WWL shall promptly notify the Customer and afford the Customer a reasonable opportunity to provide the required access in a timely manner. For the avoidance of doubt, WWL reserves the right to charge the Customer for any wasted or additional collection costs incurred as a result of the Customer's failure to provide such access.
- 6.6 The Customer recognises that it is difficult for WWL to ensure that the Customer's pavement, driveway or other surface are adequate to bear the weight of vehicles and Equipment belonging to WWL. The Customer therefore accepts responsibility for assessing and ensuring such adequacy and obtaining appropriate insurance cover for any damage to the Customer's pavement, driveway or other surfaces that result from the weight of vehicles and Equipment belonging to WWL.
- 7. Limitation of liability**
- 7.1 WWL has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £10,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover WWL has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 7.2 References to liability in this clause 7 include every kind of liability arising under or in connection with the Order including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 7.3 Nothing in this clause 7 shall limit the Customer's payment obligations under the Order.
- 7.4 Nothing in the Order limits any liability which cannot legally be limited, including but not limited to liability for:
- 7.4.1 death or personal injury caused by negligence;
- 7.4.2 fraud or fraudulent misrepresentation; and
- 7.4.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 7.5 Subject to clause 7.4 (liabilities which cannot legally be limited), WWL's total liability to the Customer for all other loss or damage shall not exceed 100% of the fees paid in accordance with the Order.
- 7.6 Subject to clause 7.3 (no limitation of Customer's payment obligations) and clause 7.4 (liabilities which cannot legally be limited), this clause 7.6 sets out the types of loss that are wholly excluded:
- 7.6.1 loss of profits;
- 7.6.2 loss of sales or business;
- 7.6.3 loss of agreements or contracts;
- 7.6.4 loss of anticipated savings;
- 7.6.5 loss of use or corruption of software, data or information;
- 7.6.6 loss of or damage to goodwill; and
- 7.6.7 indirect or consequential loss.
- 7.7 WWL has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Order.
- 7.8 Unless the Customer notifies WWL that it intends to make a claim in respect of an event within the notice period, WWL shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire one month from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 7.9 The Customer shall indemnify and hold harmless WWL from and against any and all claims, losses, damage, penalties, fines and liabilities resulting from or arising out of the deposit of any Excluded Waste in the Equipment, including but not limited to collection vehicles, containers and skips, and any subsequent handling of the Excluded Waste by or on behalf of WWL or any other subcontractors.
- 7.10 The Customer shall indemnify and hold harmless WWL from and against any and all claims, losses, damage, penalties, fines and liabilities resulting from or arising out of the Customer's use, location, operation or possession of the Equipment not caused by the negligence of WWL or its employees.
- 7.11 The Customer expressly acknowledges being subject to the Duty of Care and the Customer shall indemnify and hold harmless WWL from and against any and all claims, losses, damage, penalties, fines and liabilities resulting from or arising out of the Customer's non-compliance with said Duty of Care.
- 8. General**
- 8.1 Force majeure**
- 8.1.1 Neither party shall be in breach of the Order nor liable for delay in performing, or failure to perform, any of its obligations under the Order if such delay or failure result from events, circumstances or causes beyond its reasonable control (**Force Majeure Event**).
- 8.1.2 A Force Majeure Event includes, any act, event, non-occurrence, omission or accident beyond WWL's reasonable control and includes, but is not limited to;
- (a) Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (b) Any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (c) Acts of God, fire, explosion, collapse of buildings storm, flood, earthquake, subsidence, epidemic, pandemic or other natural disaster;
- (d) impossibility of use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- (e) impossibility of the use of public or private telecommunications networks.
- (f) Non-performance by WWL's suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause).
- 8.1.3 WWL's obligations under these Conditions are suspended for the period that the Force Majeure Event continues, and further, WWL will extend the time to perform these obligations for the duration of that period. WWL will take all reasonable steps to bring the Force Majeure Event to a close or to find a solution by which its obligations under these Conditions can be performed despite the Force Majeure Event.
- 8.2 Assignment and other dealings**
- 8.2.1 The Customer shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Order without WWL's prior written consent.
- 8.2.2 WWL may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Order.
- 8.3 Confidentiality**
- 8.3.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 8.3.2.
- 8.3.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Order. Each party shall ensure that its

- employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 8.3; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 8.3.3 Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under the Order.
- 8.4 Entire agreement**
- 8.4.1 The Order constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 8.4.2 Each party acknowledges that in entering into the Order it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Order. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Order.
- 8.5 **Variation.** Except as set out in these Conditions, no variation of the Order shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 8.6 **Waiver.** A waiver of any right or remedy under the Order or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Order or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Order or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 8.7 **Severance.** If any provision or part-provision of the Order is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 8.7 shall not affect the validity and enforceability of the rest of the Order.
- 8.8 Notices.**
- 8.8.1 Any notice or other communication given to a party under or in connection with the Order shall be in writing and shall be sent by email to the address specified between the parties.
- 8.8.2 Any notice or communication shall be deemed to have been received if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 8.8.2, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 8.8.3 This clause 8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 8.9 **Third party rights.** The Order does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Order.
- 8.10 **Governing law.** The Order, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.
- 8.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Order or its subject matter or formation.