

Houghtons Waste Paper Limited
Terms and Conditions for recycling and general waste disposal services

1. Definitions

In these terms and conditions the following definitions shall apply:

Contract: means the contract for the provision of the Services by the Contractor to the Customer that comprises these terms and conditions and the Order.

Contractor: means Houghtons Waste Paper Limited.

Customer: means the company, entity or individual detailed in the Order.

Equipment: means such sacks, wheellie bins, skips (including compactor skips), curtain sided trailers and other equipment that the Contractor may provide to the Customer for the storage of the Materials from time to time as part of the Services as detailed within the Order.

Excluded Items: Any item that is not recyclable, including (but not limited to) rubble, building material, chemicals, paints, dangerous or hazardous substances, and illegal materials

Materials: means such recyclable materials that the Contractor has agreed to collect or receive from the Customer, from time to time, pursuant to the Order, but at all time excluding the Excluded Items.

Material Price: means the price for the Materials based on the value of the Materials as set out in the Quoted Values of the Contractor at the time of collection/receipt of the Materials in accordance with these terms and conditions.

Order: means the quotation by the Contractor to provide the Services to the Customer, once accepted by the Contractor, in accordance with these terms and conditions.

Price: means the price paid by the Contractor to the Customer, or vice versa (as the case may be), which is calculated as the Material Price less the Service Charge (if applicable).

Quoted Values: means the quoted values for the Materials, that the Contractor shall issue from time to time, setting out the purchase value of the Materials, and the specification, weight, quantity and quality requirements (including potential moisture deductions) of the Materials that will be purchased by the Contractor, including a sliding scale formula for the price that will be paid by the Contractor, based on the quantity of Materials supplied by the Customer over a 30 day period.

Services: means the provision of services for the removal of the Materials for recycling or general waste disposal and/or the rental of the Equipment, as more particularly described within the Order in consideration of the purchase of the Materials by the Contractor at the Material Price and the payment of the Service Charge by the Customer in accordance with these terms and conditions.

Service Charge: means the charge for the provision of the Services and the rental of the Equipment (if any) as set out in the Order.

Term: the duration of the term of the Contract as set out within clause 4 of these terms and conditions.

Waste Transfer Note: a waste transfer note that complies with section 34 of the Environmental Protection Act 1990

Working Day: a normal working day (excluding weekends and public holidays in England)

2. Conditions of Business

2.1 Quotations by the Contractor unless otherwise stated in them shall be open for acceptance within 30 days of the date of the quotation. A quotation for Services given by the Contractor shall not constitute an offer, and the Contractor reserves its right to change the quotation after it has been issued.

2.2 No Contract shall come into existence until the Order (however given) is either accepted by the Contractor's written acceptance, or otherwise by the Contractor commencing with the provision of the Services to the Customer in accordance with the Order.

2.3 All Services and Equipment supplied by, and Materials purchased by, the Contractor are subject to these conditions unless otherwise agreed by the Contractor and confirmed in writing upon acceptance of an Order from the Customer.

2.4 The Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all previous communications, representations and arrangements, written or oral. The Customer acknowledges that no reliance is placed on any representation made but not embodied in the Contract.

2.5 The printed terms and conditions of any purchase order or other correspondence and documents of the Customer issued in connection with this agreement will not apply unless expressly accepted in writing by the Contractor.

2.6 These conditions shall be incorporated into the Contract to the exclusion of any terms or conditions stipulated or referred to by the Customer, or which might otherwise be implied by trade, custom, practice or course of dealing.

2.7 Unless otherwise stated in writing, any additional Services or Equipment that the Contractor agrees to supply to the Customer during the Term shall be supplied on these terms and conditions and shall be deemed to form part of the original Order and Contract.

3. The Services

3.1 By entering into this Contract, the Customer engages the Contractor as the exclusive supplier of the Services throughout the duration of the Term in consideration of the payment, by the Contractor, of the Price in accordance with these terms and conditions.

3.2 The Customer warrants that it shall not, throughout the duration of the Term, engage any other business or person to carry out the Services or sell, lease or otherwise dispose of the Materials to any business or person other than the Contractor.

3.3 In providing the Services, the Contractor shall collect all Materials from the Customer's premises and transport the same to the Contractor's premises and arrange for its recycling and/or general waste disposal (unless otherwise prevented from doing so by circumstances beyond its reasonable control).

3.4 The Contractor agrees to provide the Customer with Equipment from time to time (upon receipt of a written request by the Customer) for the storage of the Materials pending collection. Where the Customer does not use the Contractor's equipment, the Customer must make the Materials available for collection in accordance with these terms and conditions.

4. Length of Term

4.1 Where the Contractor under the Contract provides ongoing Services to the Customer the Contract shall be for an initial period of 1 year from the date of the Contract and thereafter automatically renewable annually unless either party shall give to the other not less than 30 days prior written notice of termination expiring on any anniversary of the date of this Contract.

4.2 If notice of termination is not received as set out in clause 4.1, the Contract for ongoing Services shall be treated as renewed and the Customer shall continue to engage The Contractor as its exclusive supplier of the Services in accordance with these terms and conditions.

4.3 Without Prejudice to any other right or remedy it may have, either party may either terminate the Contract, or temporarily suspend the Services and remove the Equipment, at any time by notice in writing to the other if:

- (a) the other party is in material breach of this Contract and has failed to remedy such breach within 30 days of receiving notice from the other party (in writing) to do so; or
 - (b) fails to pay any monies due to the other party within 14 days of the monies becoming due; or
 - (c) in the event of the insolvency of the other party.
- 4.4 Each party must notify the other, immediately upon becoming aware of an insolvency event happening, or being threatened in relation to that party.

5. Collection & Loading

5.1 The Contractor shall use all reasonable endeavours to collect the Materials from the Customer, within the frequency and at the agreed times and location as set out within the Order.

5.2 All Customers are required to provide specific written order instructions to the Contractor detailing all relevant information relating to the collection/delivery including any times during which access will be denied.

5.3. All collection dates given by the Contractor are estimated and the Contractor, its employees and agents shall be under no liability whatsoever for any delay in collection howsoever caused.

5.4 The Customer must give the Contractor not less than one Working Day's prior written notice to cancel or reschedule an agreed collection time.

5.5. The Materials shall remain at the Customer's risk until collected and released to the Contractor, with an approved collection/receipt given, and signed for by the Customer.

5.6 The Customer shall allow the Contractor unrestricted access to the Equipment and the Materials at the agreed times to allow the Contractor to provide the Services.

5.7 Subject to clause 5.8, the Contractor shall only collect Materials that are stored within the Equipment provided, unless otherwise agreed between the Customer and Contractor.

5.8 Where the Customer does not use the Contractor's Equipment, the Customer shall be responsible for ensuring the Materials are adequately bailed, stored, stacked, packed and available for collection and loading onto the Contractor's vehicle prior to the agreed collection schedule or date.

5.9 If the Customer holds excess Materials, from time to time, the Contractor may review the quantity/size of the Equipment situated at the Customer's premises or additional collections can be arranged by giving not less than one Working Days prior written notice.

5.10. Where collection is by instalments each collection will be a separate contract and any failure or defect in any one collection shall not invalidate the Contract as to the remaining collection.

5.11 If:

- (a) the Contractor cannot gain access to the Equipment or the Materials; or
 - (b) the Material is not available for collection at the agreed time; or
 - (c) the Materials are not bailed or stacked in a safe manner as provided for by this clause 5; or
 - (d) in the sole discretion of the Contractor, the Materials are unsafe for transportation;
- then the Contractor reserves the right to charge the Customer for the any loss incurred by the Contractor as a result of the Customer's failure to comply with this clause, including (but not limited to), petrol/diesel, drivers costs, administration costs and any other losses suffered by The Contractor as a consequence of the Customers breach.

6. Legislation

6.1 The Customer shall comply with all legislation and regulations applicable to the storage and disposal of waste that is appropriate for the Customer's business, including (but not limited to) the Environmental Protection Act 1990, and ensuring that the materials do not include any waste that requires notification

under the Hazardous Waste (England and Wales) Regulations 2005 or the Special Waste Regulations 1980, or any subsequent modifications or amendments thereof.

6.2 The Contractor undertakes to recycle the Materials or, to dispose of the Materials or transfer it to the holder of a waste disposal or waste management licence appropriate to the waste description and to supply the Customer with a Waste Transfer Note.

7. Health & Safety

7.1 The Customer shall ensure that the Equipment is located, used and loaded properly and responsibly in accordance with the Health and Safety at Work Act 1974 and any other relevant statutory provisions.

7.2 The Customer has the responsibility under the Health and Safety at Work etc. Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare of their employees.

7.3 Where the supply of Equipment means that existing risk assessments are no longer valid, the Customer should review their risk assessment.

8. Payment

8.1 The Contractor shall notify the Customer of the Price of the Services, including details of the Material Price and the Service Charge (and any deductions that are made in accordance with clause 9) on a monthly basis (if the Services have been used in that month) as set out within the Order (**Statement**).

8.2 Upon commencing the Contract, the Customer will be sent a self-billing agreement by the Contractor. The Customer must sign and return the self-billing agreement to the Contractor within 7 days of receipt. If the self-billing agreement has not been signed and returned, the Contractor may withhold payment of the Price until the signed self-billing agreement has been received.

8.3 The Price shall be paid for by the Contractor to the Customer within 30 days of the date of the Statement.

8.4 In circumstances where the Service Charge exceeds the Material Price, the Contractor shall supply the Customer with an invoice and the Customer shall pay the Contractor the Price within 30 days of the date of the invoice (due date).

8.5 Any dispute as to the Price shall be notified by the Customer to the Contractor within 7 days of the receipt of the Statement as set out in clause 8.1 above.

8.6 Payments outstanding at their due date shall attract interest at 4% over the base lending rate of Barclays Bank Plc for the time being in force from the due date until the date of payment.

8.7 It is acknowledged by the Customer that the Contractor may adjust the Service Charge from time to time to cover any legislative, fuel, disposal cost increases or any other cost variables outside of the Contractor's control, or any additional costs incurred as a result of the Customer amending its instructions to the Contractor.

8.8 It is acknowledged by the Customer that the Contractor may adjust the Quoted Values from time to time to reflect any variance in the material value for recyclable materials, together with any other variables outside of the Contractor's control, notice of which shall be given to the Customer at the earliest possible opportunity.

8.9 Any alteration to the List Price and the Service Charge will be notified in writing to the Customer as soon as is reasonably practical and will be deemed accepted by the Customer immediately upon the next collection of material by the Contractor following such notification.

9. Additional Charges and Suspension of Services

9.1 The Contractor reserves the right to charge the Customer, on a full indemnity basis, for all costs incurred by the Contractor for:

- (a) the provision of any additional Equipment that is not set out within the Order; or
- (b) expedited or additional collections/visits; or
- (c) any monies charged to the Customer in accordance with clause 5.12 or any other loss incurred as a result of the Customer's failure to make the Materials available for collection at the agreed time, and in the manner provided for, pursuant to clause 5; and such additional charges shall be notified to the Customer on the Contractor's usual terms in accordance with clause 8.

9.2 All Material destined for disposal or recycling shall be assessed by the Contractor to ensure that it meets with the industry standards and the agreed specification set out within the Quoted Values (including an assessment of moisture retention within the Materials). The Contractor reserves the right to reject and reload Materials that do not conform to the required specifications, and to deduct from the Material Price such sums as it deems appropriate to reflect the variance in the weight of the Materials as a result of moisture retention. The Contractor shall provide the Customer with evidence of any Materials that do not conform and of any Materials that are subject to deductions as a result moisture retention. The Contractor shall deduct from the Price, all costs incurred in removing, sorting and disposing of any Excluded Items.

9.3 The Customer shall indemnify the Contractor against any loss or damage suffered by the Contractor as a result of the Customer supplying Excluded Items to the Contractor including (but not limited to) damage caused to vehicles, equipment and machinery as a result of the Excluded Items.

9.4 The Customer shall fully indemnify the Contractor for all damages, costs, claims, demands and loss suffered (whether directly or indirectly) whatsoever by the Contractor as a result of the Customer's breach of the Contract.

10. Use, Storage and Insurance of the Equipment.

10.1 Any Equipment supplied by the Contractor shall at all times remain the property of the Contractor. The Customer shall be responsible for its maintenance and safe keeping and for any damage while under its care and shall not permit its use or movement by any third party without the written consent of the Contractor.

10.2 The Equipment must be returned to the Contractor at the end of the Term in the same condition as when provided at the start of the agreement reasonable wear and tear excepted.

10.3 The Customer shall ensure that the Equipment is not overloaded or filled with unsuitable waste, such as building rubble, soil, concrete and similar waste.

10.4 The Customer accepts full responsibility for the location, care and the use of the Equipment and the material while at the Customer's premises and shall ensure that its public, employers and fire insurances cover any risks associated with the Equipment in accordance with this acceptance of responsibility and shall also include the Equipment on their insurance schedule at its present replacement value. The Customer accepts full liability for the loss of or damage to the Equipment, from whatever cause, while the Equipment is on rental/loan and will compensate the Contractor for the cost of replacement or refurbishment thereof. The Contractor can ask the Customer to view its certificate of Insurance at any time.

11. Liability

11.1 Subject to clause 11.3:

(a) The Contractor shall have no liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss or damage of any nature arising under or in connection with any breach of any express or implied warranty or condition of the Contract or in any other way out of or in connection with the performance or purported performance of or failure to perform the Contract; and

(b) The Contractor's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, the invoiced price of the Services to which the claim relates

11.2 Without prejudice to the clause above, the Contractor shall not in any event be liable for any claim unless notified in writing within 7 days of the collection of material or the event giving rise to a claim.

11.3 Nothing in this Contract shall limit or exclude the Contractor's liability for:

- (a) for death or personal injury resulting from the Contractor's negligence; or
- (b) for fraud or fraudulent misrepresentation.

11.4 Without prejudice to the clause above, the Contractor shall not in any event be liable for any claim unless notified in writing within 7 days of the collection of the Material or the event giving rise to a claim.

12. Force Majeure

The Contractor shall be excused from any liability if the performance in whole or in part of the Contract is prevented or hindered by cause beyond its control including without limitation by Act of God, War, Terrorism or acts of central or local Government or other competent authority, fire, accident, strike, trade dispute or lockout etc.

13. General

13.1 The Customer shall ensure that any person giving written instructions, or signing a delivery/collection note, on behalf of the Customer pursuant to these terms and conditions is duly authorised to enter into contracts on the Customer's behalf, and the Contractor is entitled to assume that any person giving written instructions, or signing a delivery/collection note, on behalf of the Customer is so authorised, without the need to carry out further enquiry.

13.2 The Customer may not transfer, assign or otherwise part with the whole or any part of its rights and obligations under any Contract without the Contractor's prior written consent. The Contractor may transfer, assign or otherwise part with the whole or any part of its rights and obligations under any Agreement at any time.

13.3 Neither party's failure to enforce or rely on or delay in enforcing or relying on any right will prevent that party from later enforcing or relying upon that or any other right.

13.4 If a court or other regulatory body finds that any part of this Agreement is invalid or unenforceable, the remainder of the Contract shall not be affected and shall be construed as if such invalid or unenforceable part did not exist.

13.5 Nothing in any Contract shall confer any rights upon any person who is not a party to it, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

13.6 Each Contract shall be governed by and construed in accordance with the law of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales