



Terms and Conditions for Commercial Trade Waste Services from Redcar and Cleveland Borough Council

1. Definitions and interpretations

In this Agreement the following words and expressions shall have the following meanings:

'Agreement' means the Customer Application Form and these Terms and Conditions;

'Agreement Period' means the period in clause 2;

'Customer Application Form' means the application form for the provision of the Services; this includes information covered on a waste transfer note;

'Charges' means the fee charged by the Council for the Services and as set out on the Council's website www.redcarandcleveland.gov.uk

'Collection Day' means the dedicated day the Waste is collected as notified by the Council;

'Collection Point' means the point for collection of Waste as determined and notified by the Council;

'Commencement Date' means the date on which the Services start.

'Container' means the container(s) provided by the Council for the storage of Waste;

'Council' means Redcar and Cleveland Borough Council, including any agent appointed by the Council to deliver the Services;

'Customer' means the person or business stated on the Customer Application Form;

'Excess Waste' means Waste that exceeds Container capacity;

'Presented' means the presentation of the Container(s) for Collection including, but not limited to, access to Container(s) through locked gates and or entrances and or blocked access;

'Services' means the collection of Waste from the Collection Point and the supply of the Container(s) to the Customer;

'Waste' means the Customer's waste to be collected by the Council.

2. Period of the Agreement

2.1 This Agreement shall start on the Commencement Date and shall continue until the end of the subsequent financial year which will be the 31st of March of that year (the financial year being 1st April to the following 31st March), where it will be renewed automatically thereafter for successive terms of 12 calendar months unless terminated earlier in accordance with the provisions of this Agreement.

3. Provision of the Services

3.1 The Council agrees to provide the Services in accordance with the provisions of this Agreement making collections on the days, at the frequency and for the amounts set out in the Customer Application Form.

3.2 The Services shall be limited to the number and volume of Container(s) in the Agreement and for which payment has been agreed. No refund will be made where the volume of Waste collected is less than that set out in this Agreement. No Excess Waste will be collected unless by prior arrangement with the Council and will be charged for accordingly.

3.3 The frequency of the Services may be changed by the Council during Bank Holidays, other holidays, during a civic emergency, to meet other operational requirements including bad weather or in other circumstances which impact on the Council's ability to provide the Services and which are outside the control of the Council. Such changes will, where possible, be notified to the Customer in advance. If the Council is not able to provide the Services on the scheduled days, the Council agrees to reschedule the Services at the earliest possible opportunity without cost to the Customer. The Customer agrees to assist the Council where the need to reschedule the Services is required and accepts that circumstances may require the Customer to use a different method for storage of Waste (such as by the use of sealed bags) temporarily at the Customer's own risk and cost.

3.4 The Council may make operational changes during the Agreement Period to ensure that the Services are provided in an efficient and cost-effective manner. The Customer will be informed of such operational changes as soon as reasonably possible.

4. Customer's Responsibilities

4.1 The Customer acknowledges that it has a duty of care under the Environmental Protection Act 1990 to take all reasonable steps to ensure that the waste is managed in an authorised manner. As part of this duty, the Customer must ensure that a written description of the Waste is provided to the Council by accurately completing the Customer Application Form. The Customer must advise the nature and composition of the Waste, how it will be stored and contain sufficient information to enable safe and legal handling, recovery or disposal of the Waste.

5. Storage and Collection

5.1 On collection day, the Council shall have clear access to the container(s); it is the Customer's responsibility to present the container(s) in a safe and secure manner. If access to the container(s) is blocked and prohibits collection, the Council shall make one additional attempt for collection. Further attempts to collect will be classed as an "extra service" and will incur an extra charge. If the Customer believes their collection has been missed they should notify the Council within 24 hours of the Collection Day.

5.2 The Waste must not contain any liquids, oil, any material which is toxic, corrosive, flammable, explosive or hazardous or any waste that is or is likely to be a health and safety risk to any person. The Council reserves the right at any time to refuse to collect, deal or handle any waste which does not conform to the description provided in the Customer Application Form.

5.3 If collection has been refused on the grounds that the Waste does not conform to the description provided in the Customer Application Form the Customer will be responsible for the removal of Waste from the Container or held liable for the costs incurred by the Council for such removal and for damage caused to the vehicle or contamination of the vehicle load.

5.4 The Council shall be entitled to take test samples of the waste at any time to satisfy itself that the Customer's description of the waste is a true, accurate and complete.

5.5 All Containers provided by the Council to the Customer under this Agreement remain the property of the Council and may only be used in accordance with this Agreement. The Customer shall have no right, title or interest in the Container(s) (and the same shall not be sold or otherwise disposed of). The Customer shall not use the Container for incineration or any other purpose other than the storage of non-hazardous Waste. The Customer shall bear all the risks involved in the siting, storage, loading, and use of the Container(s) and accepts responsibility for all loss, damage or defacement of the Container(s). The Customer shall take all reasonable care of the Container(s) keeping them in a clean and good condition at the cost of the Customer including the cost of cleansing. The Customer shall immediately inform the Council of any defect affecting the Container.

5.6 The Customer must not overload the container(s) nor load the container(s) in a way which makes emptying unsafe. The Council reserves the right to refuse to empty any container(s) if in the reasonable opinion of the Council the container and/or the Waste is unsafe.

5.7 No mechanical means will be used to compact the contents being placed in the Container(s) without the prior written consent of the Council.

5.8 The Customer shall ensure that the Waste intended for collection by the Council is in the Container(s) and is not put, stored or kept outside of the Containers(s) in any other way. Any Waste stored or kept outside the Container(s) will be Excess Waste and not be collected and will incur an additional charge for removal.

5.9 The Customer shall not make any alterations or improvements to the Container(s) without the prior written consent of the Council.

- 5.10 The Council shall not be held responsible for any damage to access ways, road surfaces, parking areas, footways, kerbs etc. belonging to the Customer or third parties resulting from the weight or size of the waste collection vehicles, and the Customer shall indemnify the Council in accordance with clause 8.
- 5.11 This Agreement does not give permission to deposit any Waste on the public highway except on the Collection Day as set out in the Agreement.
- 5.12 The Customer agrees that the Council will acquire full title to the Waste once it is collected and the Council will have the right to handle, deal with and dispose of the Waste in accordance with best practice.
- 5.13 The Customer will not, without the Council's prior written permission, place any signs or advertising on the Container(s).
- 5.14 The Customer hereby grants the Council and its agents a licence to enter the Customer's premises to deliver the Services in accordance with this Agreement or to recover its property (including, but not limited to, the Container(s)) at any time with or without vehicles and with or without notice, except that the Council will endeavour to provide reasonable notice if it is reasonable in the circumstances to do so.

6. Charges

- 6.1 In consideration for the provision of the Services, the Customer agrees to pay the Council the Charges. The Charges will be reviewed annually and take effect each April.
- 6.2 The Charges will be calculated in accordance with rates set by the Council and the frequency of the Services throughout the Agreement Period. The Charges do not include Value Added Tax unless the customer's collection address is outside the Council's area (that is, the area of the local authority as determined by local government legislation); or the where the Council undertakes waste collection on behalf of a private waste contractor for example a 'sub-contractor – these customers will be charged Value Added Tax at the standard rate.
- 6.3 The Council shall be permitted to either increase or decrease the Charges payable by the Customer during the Agreement Period and the Customer will be advised of any change as soon as reasonably practicable and will be enforceable immediately upon publication on the Council's website. The Customer shall have the option to terminate this agreement within 14 days of receiving written notice of any change to the Charges by giving 30 day's written notice.
- 6.4 Invoices will be issued annually in March in preparation for April payment each year. Where a service commences mid-year an invoice will be issued to cover charges from the Commencement Date until the following 31st of March. The Charges shall be payable: a) annually in advance, with payment being made within 14 days of the Council issuing an invoice to the Customer: or b) by direct debit in a maximum of 10 equal instalments, the first of which would be collected on the 1st April. Payment by direct debit is subject to agreement by the Council.
- 6.5 The Customer shall pay the Council the Charges as specified in the invoice. In the event that any payment is not made when due, the Council may exercise its statutory right to claim interest and compensation for debt recovery costs.
- 6.6 It is a condition precedent that the Services will only be provided where the Customer is not in default of payment provisions. The Council reserves the right to suspend services to any Customer whose account is overdue for payment or where the Customer is in breach of any of the terms of the Agreement.
- 6.7 The Council may terminate this agreement if charges remain unpaid. The Council reserves the right to remove the Container(s) from the customer's premises and charge a removal fee.

7. Variations and Terminations

- 7.1 The Customer shall have the right to request a change to the service provision; i.e. the collection frequency, Container quantity and or size. Requests must be made in writing to the Council or by

completing the Customer Application Form. Any change may result in an increase or decrease in Charges and a revised invoice shall be issued accordingly. No variation will be valid unless agreed by the Council in writing.

- 7.2 The Agreement may be terminated at any time by either party giving to the other 30 day's written notice.
- 7.3 Upon termination the Customer may receive a pro-rata refund of any Charges paid in advance. Refunds are subject to any cost to repair damage to the Container(s) and/or to clean a Container(s) in order to bring the Container(s) back into a condition suitable for re-hire.
- 7.4 Termination of this Agreement shall be made by either party without prejudice to any right or liabilities which may exist up to the date of termination.
- 7.5 If this Agreement is terminated the Customer will make the Container(s) immediately available for collection by the Council and will immediately pay all Charges due under this Agreement.
- 7.6 The Council reserves the right to terminate the Agreement for any breach of the terms of this Agreement, or give notice to the Customer of its intention to terminate and allow a reasonable time for this breach to be remedied to the Council's satisfaction.

8. Indemnity and Liability

- 8.1 The Customer will be responsible for the Container(s) and for the safety of all people (including waste collection workers) entering the premises where the Customer keeps, stores or sites the Container(s) and the Customer will be liable and agrees to indemnify the Council against any such liability, losses and claims whatsoever for injury or death to persons or loss or damage to property including the Containers unless such loss or damage is caused by the negligence of the Council.
- 8.2 The Customer will indemnify the Council against all claims arising through any neglect, act or breach by the Customer in connection with this Agreement.
- 8.3 The Council will not be liable to the Customer by reason of any delay in performing or failing to perform any of the Council's obligations in relation to the Services, if the delay or failure was due to any cause beyond the Council's reasonable control.
- 8.4 The Customer agrees to indemnify the Council against any loss or damage to the Container(s) and the Customer must keep the Container(s) insured against such loss or damage and for third party risks.
- 8.5 The Customer will compensate the Council for any damage caused to the refuse collection vehicle following misuse of the Container(s) or its incorrect contents. The method of assessing such compensation will be calculated at the sole discretion of the Council or the Council's insurers.

9. Assignment

- 9.1 The Customer shall not transfer, assign or sublet the whole or any part of this Agreement without the written consent of the Council.
- 9.2 The Council shall be entitled to transfer, assign or sublet this Agreement.

10. Severability

- 10.1 If any part of the Agreement is held to be invalid, illegal or unenforceable for any reason such part shall be removed and the remainder of the Agreement shall continue in full force and effect.

11. Waiver

- 11.1 Failure by a party to enforce the terms of the Agreement to require performance by the other party of any terms of the Agreement shall not be a waiver of such term and shall not affect the Agreement or the right of a party to enforce any such term.

12. Notices

12.1 Any notices referred to in this Agreement shall be made in writing and given to the intended party by hand, delivered by post or e-mail to the address set out in this Agreement. Any notices shall be deemed to be received two working days after posting, at the time of delivery by hand and at the time of transmission by email (unless an undeliverable report is generated).

13. Entire Contract and Variations

13.1 This Agreement constitutes the entire agreement between the Customer and the Council in respect of the provision of the Services.

13.2 The Council reserves the right to update the terms and conditions of this Agreement. Such changes shall be notified to the Customer as soon as practicable and will be enforceable immediately upon publication on the Council's website.

14. Third Party Rights

14.1 Except where expressly provided for in this Agreement, the parties agree that a person who is not a party to the Agreement may not enforce any of its terms by virtue of the contracts (Rights of Third Parties) Act 1999.

15. Law and Jurisdiction

15.1 This Agreement will be governed by and interpreted in accordance with English law and will be subject to the jurisdiction of the courts of England.

16. Data Protection Act 2018 and the General Data Protection Regulation ('GDPR')

16.1 Personal information provided by the Customer will be held and used in accordance with the requirements of the Data Protection Act 2018 and the GDPR.

17. Freedom of Information

17.1 The Council is subject to the Freedom of Information Act 2000 and Environmental Information Regulations 2004 ("the Acts"). As part of the Council's duties under the Acts, it may be required to disclose information forming part of the Agreement to anyone who makes a reasonable request. The Council has absolute discretion to apply or not to apply any exemptions under the Acts.

17.2 The Customer shall assist and cooperate with the Council (at the Customer's expense) to enable the Council to comply with the information disclosure requirements under the Acts and in so doing will comply with any timescale notified to it by the Council.

18. Force Majeure

18.1 Neither party will be liable for breach of its obligations under this Agreement to the extent that any such breach is caused by any act of God, natural flood, fire (save where such fire is due to the negligence or fault of the party in default), lightning strike, earthquake, pandemic outbreak of an infectious illness, war, military operations, act of terrorism or riot, but nonetheless each party will use all reasonable endeavours to perform its obligations.

18.2 Where an event specified in 18.1 occurs the affected party will notify the other in writing of the cause and likely duration of the non-performance. Where performance is affected for more than 30 days, the Customer will notify the Council whether it requires the Services to be recommenced, varied or cancelled (without further liability to either party) If Services are cancelled, this is without prejudice to any rights or liabilities existing prior to the date of cancellation.