

Duty Of Care Waste Agreement



1. Introduction

The Agreement sets out your responsibilities to us and our responsibilities to you.

1.1 What Makes Up The Agreement

These terms and conditions, all Sections overleaf and the Waste Transfer Note (as issued by us from time to time) make up the Agreement. For the avoidance of doubt, any amendments made by you to a Waste Transfer Note issued by us shall not form part of the Agreement unless expressly accepted by us in writing.

1.2 Who's Who In the Agreement

NWH Waste Services Limited (company number SC335165) will be referred to as "us", "we", "our". We refer to you, the party identified in the "Invoice Details" in Section 1, as "you" or "your". We refer to both parties by the use of normal English such as "both of us" or "either of us".

1.3 No Other Terms Or Conditions Apply

The Agreement Replaces all previous agreements or arrangements (whether written or oral) between both of us in relation to the Services. No additions to, changes to, or terms or conditions inconsistent with the Agreement will be binding upon us unless we expressly agree in writing to an addition to or variation to the Agreement.

1.4 Representations

You acknowledge that you have not relied on any statement, promise or representation made or given by us or on our behalf which is not set out in the Agreement.

2. Duration Of The Agreement

2.1 We will Provide the Service to you in accordance with the Agreement provided you pay the Charges in accordance with and comply with your other responsibilities under the Agreement.

2.1 The Start Of The Agreement

The Agreement starts on the date when both of us sign overleaf (or, if earlier, on the date we commence provision of the Service).

2.3 The Start Of The Service And The Initial Term Of The Agreement

The provision of the Service will begin on the Start Date and will continue for the Initial Term.

2.4 Automatic Renewal Of The Service

Both of us agree that the Service provided under the Agreement will automatically continue and be renewed for successive twelve month periods after the Initial Term, unless ended in line with Condition 7.

2.5 Can You Use Anyone Else To Perform The Service?

No. During the Agreement you must obtain the Service only from us and must not obtain services which are the same or similar to the Service from any other party.

2.6 Confidentially

You agree that you will not at any time for any reason divulge or allow to be divulged to any person or make use of or permit to be made use of any confidential information belonging to us (including Charges information) or information relating to our business affairs. This obligation does not apply to information which is in the public domain other than through your default and shall not prevent you from disclosing our confidential information to your authorised employees where this is necessary to enable you to comply with the terms of the Agreement. This obligation shall survive the termination of the Agreement for whatever reason.

2.7 Intellectual Property

You agree that you will not cause or permit anything which may damage or endanger our intellectual property rights or title to such intellectual property rights.

3. Charges For The Service

3.1 What Are Our Charges?

Our Charges will be calculated in line with Section 3 (as varied from time to time in line with Condition 5). Our Charges shall be paid by you in line with Condition 4.



3.2 VAT and Landfill and other Tax

Where applicable you will pay VAT and Landfill Tax (and other duties or taxes payable pursuant to any Legal Rules which are incurred by us in the course of providing the Service) in addition to the Charges.

3.3 Additional Charges

Charges for the Service are identifiable in Section 3, except for those mentioned below: (i) our reasonable costs incurred as a result of a breach or failure by you to comply with your obligations under the Agreement (including any legal and other costs incurred in recovering any money); (ii) a copy charge (if you ask for a copy of any document) and which, in the case of a Waste Transfer Note/Advice Note/Sales Invoice (or any other document required by you from us as evidence of our provision of the service) shall be £10 per copy document provided; (iii) any charges, costs and/or expenses incurred or suffered by us on any occasion(s) on which we are prevented or impeded from carrying out or are unable to carry out the Service (including where Containers are empty, access to the Service Site Address has been denied or impeded or the Service has been changed or cancelled by you without reasonable or proper notice to us in accordance with Condition 9.1 of the Agreement; (iv) any charges, costs and/or expenses incurred or suffered by us as a result of us not being provided with suitable access to the Service Site Address in line with Condition 8.8; (v) any charges, costs and/or expenses incurred or suffered by us in relation to providing you with any reports, certificates and other documents in connection with the Agreement and/or the Service; (vi) the DOC Admin Charges; and (vii) a reasonable administrative fee if you do not, in accordance with Condition 4.3, pay us in a manner which we deem to be acceptable. We reserve the right to charge you any of the additional charges detailed in this Condition 3.3 as they arise during the period of the Agreement.

3.4 Security Deposit

We may, at any time, also require you to pay a security deposit in relation to any Container. We can use this security deposit to pay any outstanding Charges or other charges under the Agreement.

4. Payment For The Service

4.1 Payment within 30 Days

You must pay to us in full all amounts invoiced (without any offset or deduction) in pounds sterling and in cleared funds within 30 days of the date of invoice.

4.2 What Happens If You Do Not Pay Within 30 Days?

Without prejudice to any rights we may have elsewhere under the Agreement if any amount is not paid within 30 days of the date of invoice: a) the unpaid amount will, at our discretion, attract charges and interest from the due date for payment accruing on a daily basis until payment in full is made in line with the provisions of the Late Payment of Commercial Debt (Interest) Act 1998 (the rate being 8% above the applicable Bank of England base rate); and/or b) we may at any time thereafter suspend performance of the Service as described in Condition 10.2.

4.3 Acceptable Payment Methods

We may require you to pay us in a manner deemed acceptable by us before we commence the Service or during the provision of the Service. We will notify you of the payment methods that we deem acceptable from time to time. In accordance with this Condition 4.3, we may require you to enter into a Direct Debit Agreement with us or to pay us in advance for the Service.

4.4 Rebate

4.4.1 The Rebate, subject to review from time to time in accordance with this Condition shall be payable by us to you in respect of each Uncontaminated Load Only.

4.4.2 We shall, acting reasonably, during the period of the Agreement have the option to review the Rebate at any time in line with prevailing market conditions and the resale of the Waste. We shall notify you of any changes to the Rebates as a result of this review and the Agreement shall be deemed to be amended to incorporate the reviewed Rebate, which shall be payable by us to you with immediate effect.

4.4.3 If the Waste is not as described by you in accordance with Condition 8, we reserve the right to reduce the Rebate payable to you and/or pay no Rebate to you in relation to the Waste and/or charge you for the disposal of the Waste as applicable.

4.5 Purchase Order Numbers

If purchase order numbers are required by you to process payments to us in respect of the Service then it is your sole responsibility to provide these to us as soon as reasonably practicable in respect of the relevant Service(s) and in a manner and format acceptable

to us. Details relating to your purchase order system requirements must be entered in Section 1 and if no such details are provided we are entitled to assume that you not require purchase order numbers in order to process payments to us. If you do not provide us with relevant purchase order details prior to us issuing our invoice(s) in respect of the Service(s) in accordance with this Condition 4.5 we shall be entitled to invoice you and such invoices shall still be payable in line with this Condition 4 notwithstanding the fact that the purchase order number has not been included.

5. Can We Change The Charges?

5.1 Fixed Six Month Charge

For the period of six months starting on the date the Agreement starts as described in Condition 2.2 we will not increase the Charges except as permitted in the Agreement (including as provided in Conditions 5.2 and 5.3). After this first six month period we may then vary the Charges by notice to you.

5.2 What If Our Costs Change?

We may at our discretion revise our Charges at any time (even during the six month period referred to in Condition 5.1) to reflect *changes in Landfill Tax or in Legal Rules, *changes in the composition, weight and/or volume of Waste; *changes in the type of Waste being collected; *changes in our cost of providing the Service (including changes to any tax, levies, fuel duties, wages, disposal charges, cost of material(s)); *changes in technology or to cover an improvement in our Service; and/or *any factors which are outside our reasonable control. We will give you written notice of any such change. Where revision to the Charges is required by us, the Agreement will be deemed to be amended to incorporate the revision to the Charges. The revised Charges will then be payable by you.

5.3 What Happens If The Maximum Weight Is Exceeded?

We may, at any time, take sample weights of the Waste collected by us from you. If at any time the Waste collected by us exceeds the Maximum Weight, we reserve the right to review and/or change the Service (including Container size, type or number and/or Collection Frequency) and/or Maximum Weight and/or the Charges. If this occurs we will give you written notice of any change to the Service, Maximum Weight and/or the Charges. Where such revisions are required by us, the Agreement will be deemed to be amended to incorporate these revisions. The revised Charges will then be payable by you in accordance with Condition 4 with effect from the date such sample weight was taken.

5.4 Overloaded Containers

Without prejudice to the foregoing, we may also charge you for dealing with any overloaded Container(s) or where the Maximum Weight per Container has been exceeded.

6. Notices

6.1 Your Requirements

If under the Agreement you give notice to us, such notice must be in writing and sent by recorded or registered post or hand delivered (for which a written confirmation of receipt must be obtained) to the "Servicing Depot" set out in Section 1.

6.2 Our Requirements

If under the Agreement we give notice to you, such notice must be in writing and sent by post or hand delivered (for which a written confirmation of receipt must be obtained) to your Invoice Address.

6.3 Deemed Receipt

A notice will be deemed to be received: (a) if sent by post, two working days following posting; (b) if delivered by hand, then on the next working day following delivery. Under this agreement "working day" means a day on which the banks are open for normal banking business in London.

6.4 Faxes and Emails Are Not Acceptable

Any notice sent by facsimile or e-mail will not be satisfactorily given for the purposes of Condition 6.

7. Terminating The Service

7.1 Either of us may end the Service and therefore the Agreement, by giving to the other not less than three months but not more than six months written notice as long as the effective end date under that notice is the end date of the Initial Term or an anniversary of such date.

If a notice to end the Agreement is given at a time or in a manner different from the requirements of this Condition 7.1 it will not be given correctly for the purposes of ending the Agreement. Conditions 7.2 and 7.3 set out the only exceptions to this obligation

7.2 We may give you notice to end the Agreement with immediate effect if you are in breach of any of your obligations under the Agreement. Example breaches include you failing to look after a Container in compliance with Condition 8, a failure to pay to us any amount owed on the due date or a failure to pay us in a manner acceptable to us in accordance with Condition 4.3. If the breach is capable of remedy we may, at our discretion, give you notice to remedy it within 14 days. If you do not remedy the breach to our reasonable satisfaction within this time period we will be entitled to end the Agreement with immediate effect by giving notice to you at any time thereafter.

7.3. The Agreement will end with immediate effect if: (i) a bankruptcy order is presented or made against you; or (ii) you make or seek to make a voluntary arrangement with your creditors; or (iii) an encumbrancer takes possession of any of your assets or any of your property is taken in execution or process of law; or (iv) you have a receiver, administrator or administrative receiver appointed for any part of your assets or a petition is presented for such an appointment; or (v) a resolution for your winding up is proposed against you and this is not discharged within 21 days of its presentation; or (vi) a resolution is passed for your winding-up (except for the purposes of a genuine reconstruction or amalgamation); or (vii) any event analogous to any of the above occurs.

7.4 If the agreement is ended for any reason, you will pay us on the termination date all Charges and all other sums due to us. You will also pay us the cost of collecting each Container and the cost of repair or replacement of the container in line with Condition 11.1. If the Agreement is ended (except pursuant to Condition 7.1) you also agree to pay to us on the termination date, by way of agreed compensation in respect of such early termination, an amount equal to one third of our estimated Charges (EC) plus any material value (MV) for the lost notice days (ND) i.e. $33\% \times ((EC + MV) \times ND)$ where (as shown by our records) ND is the number of days from the date the Agreement actually ends to the earliest date on which it could have validly ended in line with Condition 7.1. EC is the estimated average daily charge in respect of the Service calculated by reference to the Charges and Collection Frequency currently effective under the Agreement and the estimated amount of Waste that would have been collected by us under the Agreement. MV is the estimated average daily resale value of Waste collected by us under the Agreement. This shall be calculated using the current resale value of the Waste as determined by us acting reasonably, together with the estimated amount of such Waste that would have been collected by us under the Agreement. For the purpose of the definition of EC and MV the estimated amount of Waste shall be based on either; (i) the actual amount of Waste collected in the six months immediately prior to the date of notice of termination of the Agreement; or (ii) our estimate (acting reasonably) of the amount of Waste that would have been collected under the Agreement. Ending The Agreement Will Be Without Prejudice To Any Rights Or Remedies That Either Of Us May Have Accrued To That Date.

7.5 Where we have to pursue you for money you will also pay us any legal and other costs incurred in recovering such money.

8. Your Responsibilities For The Waste

8.1 We Rely On You To Describe Your Waste Accurately

You are responsible for the correct selection of each EWC/LOW Code or other description of your Waste, including its pre-treatment, as contained on any current Waste Transfer Note. You will be responsible for ensuring that at all times only materials conforming to your description of your Waste are placed in any Container.

8.2 Inaccurate Descriptions Of Your Waste

We may at any time take samples of your Waste to satisfy us of the accuracy of your description of the Waste and also of its pre-treatment, if applicable. Under no circumstances will this right to take samples free you of your obligation to accurately describe your Waste or its pre-treatment.

8.3 Can We Refuse To Deal With A Container's Contents?

Yes. At any time we may refuse to deal with any Waste or other material for any valid reason. Examples of a valid reason include material or Waste which we believe may; not match accurately with your description of your Waste; be corrosive, explosive, flammable, infectious, toxic, poisonous or otherwise dangerous; cause us to incur any civil or criminal liability, be unsuitable for or may damage the Vehicle; contaminate other Waste already collected by the Vehicle; overload the Container beyond its capacity in respect of weight or volume; be in excess of the Maximum Weight per Container; cause us to incur extra costs to transport or dispose of it in line with Legal Rules; if we are not satisfied that you are complying with any Legal Rules in relation to the Service. If we refuse to deal with any Container's contents for a valid reason we will not be in breach of the Agreement and may insist that you remove, or arrange for a specialist third party to remove, such contents. We may also charge you our extra costs in dealing with the Container's contents incurred or suffered by us for a valid reason as outlined in this Condition 8.3.

8.4 New Waste Transfer Note

Both of us agree to sign a new Waste Transfer Note, which will replace the then current Waste Transfer Note if there is a change in the material forming your Waste. Both of us shall sign a new Waste Transfer Note at least on an annual basis (and in any event, prior to the expiry of the then current Waste Transfer Note).

8.5 Ownership And Liability For Your Waste

You agree that you have sole responsibility to dispose of the Waste. All Waste will become our property from the time when we empty or collect a Container. This will not free you from any liability or responsibility you have in relation to the Waste (whether under the Agreement, Legal Rules or otherwise).

8.6 You Are Responsible For Each Container

We will deliver to the Service Site Address each Container requested by you under the Agreement. Once we deliver a Container you will be responsible for it.

8.7 The Condition Of Any Container

You will be responsible for making an examination of the Container at the time of delivery. Unless you tell us otherwise, each Container will be deemed to be in good working order and condition. If you believe that a Container has a defect you must tell us as soon as possible and in any event within five working days of its delivery to the Service Site Address. When you tell us you must explain what the defect is giving sufficient detail to identify the defect and whether you believe the defect is 'Minor' (for example, it is dented) or 'Major' (for example, it may prevent the safe storage or transport of your Waste or it may be a risk to health and safety). Using the information you give us we will (acting reasonably) decide what to do. If you report Minor defect, we may, at our option, decide not to change the Container (in which case you will have no liability for the reported Minor defect). If you report a Major defect, we will contact you to agree a reasonable time period in which to come and inspect the Container and where applicable to replace the Container or to make temporary arrangements until a replacement can be delivered.

8.8 Delivery and Access

You will at all reasonable times allow us suitable access to deliver, empty, inspect, repair or replace any Container. At the end of the Agreement, however ended, you will allow us, with or without notice, suitable access for the removal of the Container(s) and any other property belonging to us. Suitable access is space for manoeuvring the Vehicle that is sufficient, safe and unlikely to cause damage to the Vehicle, any container or other property. The driver of the Vehicle will ascertain if suitable access is available and may refuse to deliver, empty or replace a Container if they believe access is unsuitable. If you request Container(s) to be placed in a position which requires the Vehicle to leave the public highway, you will indemnify us against any losses, costs, claims, damages, charges or expenses which we thereby incur or suffer, whether as a result of damage to the Vehicle, the Container, your property or a third party's property or otherwise, including damage to the road margins and pavements, drains and drainage save where such losses, costs, claims, damages, charges or expenses are incurred or suffered as a result of our negligence.

8.9 Rights In Each Container

Each Container will either be owned or leased by us and will remain so, despite delivery. You will have no title to any container or any right to withhold it from us or to dispose of it whether by way of mortgage, pledge, lien, charge, assignment, adverse title, security interest or trust arrangement otherwise.

8.10 Fit For Purpose

You agree that each Container is suitable for the purpose of storing, transporting, pre-treating or disposing of (as appropriate) Waste. We rely on your advice as to the number of Containers and type and weight of Waste involved. You must tell us (as soon as possible) if you believe any Container is not fit for your purpose or, following any change to your Waste, is no longer fit for your purpose.

8.11 You Are Responsible For The Use Of Each Container

You will ensure that all Waste is properly placed in the Container. You will not allow any Container to: be used other than by you, contain any material other than your Waste or to become polluted or contaminated; be removed from the Service Site Address; be overloaded or overfilled (even if not overloaded); be damaged or set on fire (including its contents); display any advertising, mark, logo, sign or lettering other than our name, logo and contact details (which you will not deface, remove or cover up); be interfered with or be used for any purpose other than its intended purpose. You will ensure each Container is used and/or stored in line with Legal Rules (including Legal Rules relating to health and safety). Where the Container is situated on the public highway you shall be responsible for obtaining suitable permits/licences and the provision of cones, lights and/or any other required safety equipment or accessories as required by Legal Rules and/or as requested by us from time to time.

8.12 Cleaning A Container

You must take reasonable care to keep the condition of each Container clean and in good condition and in line with Legal Rules. When you clean a Container you must ensure that the method used (including the cleaning products used) does not cause any damage. For example, any cleaning products must not be corrosive or dangerous or otherwise pollute or contaminate the Container or your Waste.

8.13 Containers With Mechanisms

You must not interfere with the mechanism of any Container.

8.14 Liquid Waste

You will be responsible for the connection of any Vehicle's hose to your valve or coupling as well as the operation of any coupling, valve or other mechanism which is not our property.

8.15 Changing The Type Of Container

We may, at any time, change the type of Container provided to you by replacing it with a reasonable alternative if, for example we wish to change the type of Vehicle that collects your Waste.

8.16 Operation In Line With Legal Rules

We accept no liability for any third party's failure to operate any Disposal Site in line with Legal Rules. We may change the Disposal Site if we believe it is not being operated in line with Legal Rules.

9. Can Your Service Be Changed?

9.1 Service Requirements

Either of us may, in prevailing market conditions change and/or if your Service requirements at any time change, notify to the other a request to change the Service (whether as to Container size or number, the Collection Frequency or otherwise). Any such communications should be in writing either to the "Servicing Depot" in your case or the Service Site Address in our case, as set out in Section 1. Both of us will agree to change the Service, the Charges and the Rebate (if applicable) as we consider suitable (acting reasonably). If the Service requirements are changed pursuant to this Condition 9.1, the Agreement shall be varied accordingly. We may ask you to sign a new Agreement in respect of the amended Service.

9.2 Registered Waste Brokers

If you are a Registered Waste Broker and in the course of so acting you are given irrevocable written notice by a representative of a business operating from a Service Site Address to which you provide a service as a Registered Waste Broker ("your customer") that your services are no longer required in respect of such Service Site Address then we will consider amending the Service in accordance with Condition 9.1 above provided that you supply us with written evidence of such notice from your customer and you act in good faith in relation to the request made by you pursuant to this condition 9.2.

9.3 Changing Collection Days

We may, at any time upon reasonable notice, change the days on which we collect your Waste.

9.4 Scheduling of the Service

If the Service is provided on an "ad hoc" or an "as required" basis, and the Collection Frequency (as specified in Section 2) differs materially from the actual Collection Frequency we may, acting reasonably; provide the Service on the basis of a defined schedule in line with the Collection Frequency (as specified in Section 2); and/or amend the Charges.

10. Late Service And Suspension of The Service

10.1 If The Provision Of The Service Goes Wrong

We will not be liable to you for late performance, or any delay in performance, of the Service. If we are prevented from doing anything we have said we will do under the Agreement because of anything that we cannot reasonably control, for example, due to Vehicle breakdowns, our inability to temporarily obtain labour, industrial disputes, weather conditions, or any other causes beyond our reasonable control, then we will not be liable to you for non-performance of our obligations to provide the Service.

10.2 Service Suspension

If you are in breach of the Agreement or where, in our reasonable opinion you are unable or unwilling to pay for the Service (including failing to pay for the Service in line with the acceptable payment methods in accordance with Condition 4) then we may stop performing the Service until you have remedied the breach to our reasonable satisfaction (or are in our reasonable opinion able and

willing to pay for the Service, as the case may be). We may also suspend the Service if you have not complied with your obligations as required by Condition 8.4. We will not be liable to you for any resulting loss, damage or expense.

11. Risks

11.1 Risk Of Loss Of, Or Damage To, Any Container

You will be liable to us in full for all loss of, or damage to, any Container occurring at any time after delivery to the Service Site Address (save for any loss of or damage to any Container which is due to fair wear and tear or our negligence).

11.2 Other Liabilities

You will indemnify us against any injury, death, demand, action, cost, expense, loss, damage or liability suffered by us as a result of the provision of the Service including from any: (a) act, omission or negligence to you, your employees, servants, agents or sub-contractors; (b) inaccuracy in the description of your Waste or its pre-treatment; (c) placing (or allowing to be placed) materials in any Container which do not confirm to the description of the Waste as specified in the then current Waste Transfer Note; (d) placement of any Container (including on land, road margins and kerbs adjacent to the Service Site Address); (e) breaches of your duties under any Legal Rules.

11.3 Health And Safety

You will be responsible for the safety of any person (including both of our respective employees, servants, agents and subcontractors) whilst at the Service Site Address including when they are loading or unloading any Container with Waste or using its mechanism (if any). If you ask we will, when the first Container is delivered, arrange for training in the operation of the Container. We may charge you for arranging any training provided after delivery (for example, to train your new employees).

11.4 Insurance

You will maintain at your own cost and expense adequate insurance cover in respect of your liabilities and indemnities under the Agreement and will, if we ask, provide to us a copy of your insurance policy as proof of maintaining such cover.

Restrictions On Our Liability the following provisions set out our entire liability to you.

11.5 What We Are Responsible For

Nothing on the Agreement will operate so as to exclude, restrict or limit liability for death or personal injury caused by our negligence or that of our employees (whilst they are in the course of their employment) or for fraud or fraudulent misrepresentation or any other matter which it would be illegal for us to exclude.

11.6 Limit Of Our Liability

Subject to Conditions 11.5 & 11.7, if you suffer any loss or damage our liability to you will be limited to £25,000 per incident or series of related incidents arising from any one event.

11.7 What We Will Not Be Liable For

All warranties, conditions and other terms implied by Legal Rules are to the fullest extent permitted by law excluded from the Agreement. We will not be liable for any loss or damage that; (a) is not notified to us immediately upon you becoming aware of it; (b) results from your act, omission, negligence or default (or that of your employees, agents or sub-contractors); (c) is not a natural and direct result of our negligence or default (including any loss or damage which was not foreseeable to both of us when the Agreement was entered into); (d) is indirect or consequential loss, injury, and/or incidental, special or punitive damage(s) (including loss of goodwill, use, revenue, profits, contract and/or production), however so caused or arising and whether or not foreseeable to both of us when the Agreement was entered into. This condition 11 will remain in force despite any breach of the Agreement by us and will continue to apply if the Agreement is ended for any reason whatsoever.

12. Confidential Material

12.1 This Condition 12 only applies if we are providing a Service to you that includes the collection and disposal of Confidential Material.

12.2 We will provide to you, if reasonably requested, appropriate certification in a form agreed by both of us confirming the method of disposal of Confidential Material removed by us from the Service Site Address. There may be an additional Charge for providing this certification in line with Condition 3.3.

12.3 It is your responsibility to ensure that you have obtained the consent of all relevant data subjects to the destruction of the data

comprised in any Confidential Material and to comply with any Legal Rules relating to such Confidential Material.

13. Any Other Matters?

13.1 Legal Compliance

Both of us will comply with our respective obligations under Legal Rules that apply to the Service, the Waste or any Container. We may change the Agreement or the Service as we consider suitable (acting reasonably) to comply with any change in Legal Rules or to comply with any new Legal Rules.

13.2 Ineffective Terms Or Conditions

If a Court or other competent body decides that any provision of the Agreement (including any exclusion, restriction or limitation of liability) is void, invalid, illegal, unenforceable or ineffective that provision shall to that extent be severed from the Agreement but the rest of the Agreement will not be affected and shall continue in full force and effect. If as a result of any decision we then become liable for loss or damage that we would not otherwise have been liable for then that loss or damage will be subject to all unaffected parts of the Agreement (including all unaffected exclusions, restrictions or limitations).

13.3 Waiver

If we do not insist on any right or term of the Agreement, then such failure to insist shall not be a waiver of such right or term and we may still insist on that right or term at a later date.

13.4 Assignment

We may transfer any of our rights or responsibilities under the Agreement to another person at any time. You may not transfer any of your rights or responsibilities under the Agreement to another person without our prior written consent.

13.5 Sub-Contracting

We may sub-contract the performance of the Service (or any part of it) without your consent.

13.6 Advice By Us

Any advice or recommendation(s) given by us and followed or acted by you will be at your own risk.

13.7 Credit References

You agree that we may obtain from you and others (which may include licensed credit reference agencies) information about you, your business and your directors) and record with licensed reference agencies the existence of the Agreement and how you conduct your account with us.

13.8 Complaints

All complaints relating to the Service must be addressed for the attention of "the depot manager" and sent to the "Servicing Depot" as set out in Section 1.

13.9 Telephone Calls

We may record or monitor telephone calls made between us or any other person.

13.10 Contracts (Rights of Third Parties) Act 1999

This Act will not apply to the Agreement.

13.11 Signing The Agreement

We are entitled to assume that the person signing the Agreement on your behalf is duly authorised to bind you legally to your responsibilities, obligations and liabilities under it.

13.12 Governing Law

The laws of Scotland will apply to the Agreement. Any legal proceedings in connection with the Agreement must be brought within the jurisdiction of the Scottish Courts.

Explanation of Terms Used In These Conditions

Agreement means the agreement between us and you for the supply of the Service to you.

Charges means together the Charges set out in Section 3 and Condition 3, as may be varied from time to time.

Collection Frequency means the frequency of collections calculated using the frequency and quantity set out in Section 2 as may be changed from time to time under these Conditions.

Confidential Material means any Waste we collect under the Agreement which both of us agree in writing prior to the Start Date is confidential and/or sensitive in nature and requires secure disposal.

Container means each and every waste container, bag or other item of equipment provided by us (or on our behalf) for the storage, transport, pre-treatment or disposal of the Waste.

Credit Application means any form signed by you at any time allowing us to make enquiries of credit reference agencies or the like.

Disposal Site means the site set out in Section 2, as may be changed from time to time under these Conditions.

DOC Admin Charges means an amount payable from time to time by you for our administration of the Waste Transfer Note paperwork as required by the Environmental Protection (Duty of Care) Regulations 1991.

EWC/LOW Code means a code in the list of codes and waste descriptions set out in the European Waste Catalogue/List of Wastes.

Initial Term means the initial term for the provision of the Service set out in Section 1 or, in the absence of a specified initial term, a period of 12 calendar months from and including the Start Date (such Initial Term commencing on and including the Start Date).

Invoice Address means the invoice address set out in Section 1, as may be changed from time to time under these conditions.

Legal Rules means any UK or European law, provision of common law, requirement of any authorisation, licence, consent, permit, code of practice, rule, guidance note, proclamation, decision, regulation, order, resolution, notice, rule of court, bye-law, directive, statute, statutory instrument, standard, code of conduct or other instrument, in each case having the force of law in Scotland, issued, declared, passed or otherwise enacted, created or given effect by, without limitation, HM Parliament, the Council, the Commission of Parliament of the European Union, or any court or other judicial forum, any coroner or commission of inquiry, any local authority or any statutory undertaking or other competent authority, or any other person having such power.

Maximum Weight means the maximum weight set out in Section 3, of Waste in each Container, as may be changed from time to time under these Conditions. Minimum Tonnage means the minimum tonnage, set out in Section 3, which shall apply to the calculation of your Charges, as may be varied from time to time.

Rebate means the rate per tonne of Waste payable by us to you as set out in Section 3, as may be varied from time to time.

Registered Waste Broker means only those customers registered as waste brokers with the Environment Agency/Scottish Environment Protection Agency (as appropriate) or any statutory successor and indicated as such in Section 2.

Service means the: provision of each Container at the Service Site Address; and/or collection, transport, treatment, processing and disposal of the Waste from the Service Site Address; and/or provision of each Waste Transfer Note and its administration; and/or any other services agreed in writing between the parties to be supplied by us to you.

Service Site Address means the service site address set out in Section 1.

Start Date means the date specified on Section 1 as the date of commencement of the Service or, in the absence of such a specified date, the date the last party signed Section 4 (and for the avoidance of any doubt, the date on which we start to provide the Service will not affect the Start Date).

Uncontaminated Load means each load of Waste collected by us from you which complies with the EWC/LOW Code and the description of the Waste as detailed in the current Waste Transfer Note.

Vehicle means each vehicle used by us or on our behalf to perform any part of the Service.

Waste means the waste described by you in any Waste Transfer Note, as may be replaced from time to time under these Conditions.

Waste Transfer Note means the document, as may be replaced from time to time, signed by both of us to comply with the Duty of Care (as defined under section 34 of the Environmental Protection Act 1990 and the Environmental Protection (Duty of Care Regulations 1991).

Also in the Agreement:

- Section together with a number refers to that Section overleaf, and
- Condition together with a number means that condition here with that number, and
- The interpretation of any examples given will not be restricted in anyway to the type of listed example(s), and
- Any words denoting the singular will include the plural and vice versa, and
- Any words denoting any gender will include all genders, and
- Any references to a party will include its employees, servants, agents and sub-contractors, and
- Any words denoting persons or parties will include firms, partnerships, unincorporated associations and corporations and vice versa, and
- Any words denoting persons or parties will include their respective successors, transferees and assignees, in relation to the Agreement, and
- Any references to any documents will include all amendments, replacements and/or supplements for the time being in force, and
- Any reference to any Legal Rules will (provided the context allows) include any statute or statutory provision which amends, extends, consolidates or replaces it, and includes any order, regulation, instrument or other subordinate legislation for the time being in force made under it, and
- The words “include” and “including” will be construed without limitation.