

Terms and Conditions

Please read the Terms and Conditions for Waste & Recycling Collections.

1. Definitions and Interpretations

In this Agreement the following words and expressions shall have the following meanings:
"Agreement" means the Application Form together with these Terms and Conditions effective from 1st April 2010. Prior to 1st April 2010 the "Agreement" means the signed Trade Waste Contract together with these terms and conditions.
"Agreement Period" means the period in clause 2;
"Application Form" means the application form signed by the parties setting out the Service between the Council and the Customer in relation to commercial waste services.
"Charges" means the charges charged by the Council for the Services in relation to commercial waste services as set out in clause 6;
"Collection Point" means the point for collection of the Waste by the Council set out by the Customer in the Application Form;
"Container" means the container(s) provided by the Council, where applicable within the Agreement forming part of the Services under this Agreement;
"Council" means the London Borough of Hackney;
"Customer" means the person or business stated on the Application Form;
"Customer Container" means a container for the storage of Waste not provided by the Council;
"Services" means the collection of Waste from the Collection Point in this Agreement and the hire and use of the Containers by the Customer for the storage of the Waste;
"Start Date" means the date on which the Services start. The Start Date cannot be earlier than the dates that i) the Parties sign this Agreement and ii) the parties sign the Waste Transfer Note;
"Waste" means the Customer's waste to be collected by the Council complying with the description contained within the Waste Transfer Note and this Agreement, and prior to 1st April 2010, the Waste Transfer Note and the Trade Waste Contract.
"Waste Transfer Note" means the waste transfer note referred to in clause 4 and signed by the parties annually;

2. Period of the Agreement

2.1 This Agreement shall start on the Start Date and shall continue for one year and will unless stated otherwise in the Application Form be renewed automatically thereafter for successive terms of one year unless terminated earlier under the Agreement.

3. Provision of the Services

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

3.2 The Services shall be limited to the number and volume of Containers 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.

3.3 The frequency of the Services may be changed by the Council during Bank Holidays, other holidays, during emergency or to meet other operational requirements include bad weather or in other circumstances outside the control of the Council. Such changes will, where possible, be notified to the Customer in advance. If the Council is not able provide the Services on the scheduled days, the Council does not agree to provide a different collection that week but will be allowed to reschedule the Service to the earliest possible opportunity without liability to the Customer. The Customer agrees to help the Council to make different arrangements for the collection of the Waste and the Customer agrees that circumstances may require a different method of storage of Waste may need to be used by the Customer temporarily at their own risk and cost such as by the use of sealed bags.

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

4. Customer's responsibilities

4.1 The Customer agrees that it has a duty of care under the Environmental Protection Act 1990 to take all reasonable steps to ensure that 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 a Waste Transfer Note before the collection of any Waste. The Waste Transfer Note must contain sufficient information to enable safe and legal handling, recovery or disposal of the Waste, the quantity of the Waste and how it is contained. Where there are regular collections of the Waste and the description remains unchanged the Waste Transfer Note can be valid for up to one year. The Customer must keep the Waste Transfer Note(s) for two years after the date of the last collection set out in the Waste Transfer Notice.

4.2 The Customer warrants that the Waste Transfer Note contains an accurate and adequate description of the nature and characteristics of the Waste and that the Council is advised at all times of the composition of the Waste prior to collection. The Customer must complete, sign and return the Waste Transfer Note **before collections can commence**.

5. Storage and Collection

5.1 Containers and bags shall be stored in a safe and secure position for convenient collection by the Council. The Container lid must be closed after use and bags securely tied closed.

5.2 The Waste must not contain raw or unprocessed animal waste (including meat, fish or eggs), any liquids, 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, and 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 Agreement.

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

5.4 All Containers provided by the Council to the Customer under this Agreement are the property of the Council and may only be used in accordance with this Agreement. The Customer shall bear all the risks involved in the siting, storage, loading, and use of the Containers and accepts responsibility for all loss, damage or defacement of the Containers. The Customer shall take all reasonable care of the Containers keeping them in a clean and good condition at the cost of the Customer including the cost of cleansing. The Customer shall immediately tell the Council of any defect affecting the Container.

5.5 The Customer must not overload Containers nor load the Containers in a way which makes emptying unsafe. The Services will not be provided if in the reasonable opinion of the Council the Container and/or Waste has been left in such a way.

5.6 The Customer shall ensure that the Waste intended for collection by the Council is put in the Containers and/or bags as agreed with the Council and is not put, stored or kept outside in any other way.

5.7 The Customer shall provide access to the Waste /Container(s) on the day of collection and the time as set out in the Waste Transfer Note valid at that time. If access to the Waste/Container(s) is obstructed the Council reserves the right to charge for any additional collection cost.

5.8 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. Details of the size and weight of the vehicle used can be obtained from the Council on written request.

5.9 This Agreement does not give permission to deposit any Waste on the public highway before collection except on the collection day and collection time as set out in the Waste Transfer Note valid at that time. The Services will not be provided if Waste/Containers are placed on the public highway except where the Council agrees.

5.10 The Customer agrees that the Council will acquire full title to the Waste when it is loaded into the Council's collection vehicle and the Council will have the right to handle, deal with and dispose of the Waste in accordance with best practice.

5.11 The Customer will not without the Council's prior written permission place any name or sign,

marking or advertising on and will not remove, cover, deface or conceal the name, sign, marking, advertising placed by the Council on the Containers.

5.12 The Customer hereby gives the irrevocable right and licence for the Council and its agents to enter the premises where the Containers are kept at any time with or without vehicles and with or without notice for the purposes of assessing and/or removing the Container.

6. Charges

6.1 The Customer shall pay to the Council the Charges. The Charges are likely to be set on annual basis from 1st April each year.

6.2 The Charges payable will be those calculated under the rates set by the Council and the frequency of the Services throughout the Agreement Period. The Charges do not include Value Added Tax which the Customer will also pay to the Council.

6.3 The Council shall be allowed to change the Charges payable by the Customer during the Agreement Period and the Customer will be told as soon as possible before any change to the Charges. The Customer will pay any additional Charges arising from a change under this clause within 28 days of receiving an invoice from the Council.

6.4 At the Council's choice the Charges shall be payable:

- annually in advance, with the first payment being made within 28 days of the Council issuing an invoice to the Customer, and subsequent payments being made by the anniversary of that date; or
- over 10 months by direct debit in equal instalments; or
- quarterly in advance within 28 days of the Council issuing an invoice to the Customer.

6.5 Time of payment is of the essence. The Council will be allowed to suspend the Services whilst the Customer has not paid the Charges or to end the Agreement for non-payment.

6.6 Interest will be payable at a daily rate equal to 8 per cent, on all late payments from the due date.

6.7 The customer shall have the right to request modification to the collection frequency, container quantity and or size. Requests must be made in writing and be received by the Council, who will decide whether or not to agree the Customer request. Any agreed modification shall be reflected in a new Agreement. Any change to the volume and frequency may result in an increase or decrease in Charges.

6.8 If this Agreement is terminated by the Council due to non-payment of Charges under this Agreement and a Customer's Container is removed by the Council, the Customer shall pay the Council one hundred pounds (£100) in cash or cheque to cover the Council's costs of removal before a new Container is delivered to the Customer in order to re-instate the Agreement.

7. Termination

7.1 The Agreement may be terminated at any time by either party giving to the other 28 days' written notice.

7.2 If this Agreement is terminated, the Customer may apply in writing for the refund of the proportion of the Charges paid in advance relating to the period after the Agreement has ended. Refunds will be subject to a cancellation charge set by the Council and subject to the cost to repair any damage to the Container and/or to clean a Container required in order to bring the Container back into a condition suitable for re-hire excepting fair wear and tear to the Container.

7.3 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.

7.4 If this Agreement is terminated the Customer will make the Containers immediately available for collection by the Council and will immediately pay all Charges due under this Agreement.

7.5 The Council reserves the right to terminate the Agreement for any breach or give notice to the Customer 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 Containers and for the safety of all people (including waste collection workers) entering the premises where the Customer keeps, stores or sites the Waste Material/Container 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 arising therefrom except where death or injury to a person or damage to property 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 Customer will indemnify the Council against any damage its collection vehicle may cause to the road/drive, car park surface, or any other property where the collection vehicle is required to enter to perform the Services including all apparatus or services located beneath the route taken by the collection vehicle.

8.4 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.

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 PROVIDED THAT a registered carrier or broker of controlled waste registered with the Environment Agency (see www.environment-agency.gov.uk/business/) shall be entitled to transfer, assign or sublet on providing written copies of registration and relevant paperwork to the Council.

9.2 The Council shall be entitled to transfer, assign or sublet this Agreement upon giving prior notice in writing to the Customer.

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 prepaid first class post or sent by fax or electronic transmission to the address set out in the application form. Any notice 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 fax or email.

13. Whole Contract And Variations

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

13.2 The Council shall be entitled to amend or vary this Agreement as necessary to comply with current legislation but shall advise the Customer of any such changes as soon as possible. Any other variation to this Agreement shall be agreed between the parties.

14. Third Party Rights

14.1 The parties hereby agree to exclude the provisions of the Contract (Rights of Third Parties) Act 1999.

15. Law and Jurisdiction

15.1 This Agreement shall be governed by English law.