

Encore Environment Limited – Terms & Conditions for the Purchase of Services

1. BASIS OF CONTRACT

1.1 Our order (**Order**) for bin or skip delivery, waste collection, bin hire services or other waste management services (**Services**) constitutes an offer by us to purchase Services in accordance with these terms and conditions together with any other terms agreed between us from time to time.

1.2 Our Order shall be deemed to be accepted on the earlier of:

- (a) you issuing oral, written or emailed acceptance of the Order; or
- (b) any act by you consistent with fulfilling the Order,

at which point and on which date a contract (**Contract**) shall come into existence between us for the supply of Services on these terms and conditions.

1.3 These terms and conditions shall prevail in the event of any inconsistency between them and any other terms and conditions you seek to impose in respect of the Contract.

2. SUPPLY OF SERVICES

2.1 You shall use your best endeavours to attend collection or delivery sites at the dates and times specified in the Order or otherwise agreed between us. You acknowledge in particular that some collection sites are located in central town or city areas and the relevant bins or skips may have to be presented for collection on the street and cannot be left there for extended periods.

2.2 In providing the Services, you shall:

- (a) co-operate with us in all matters relating to the Services, and comply with all our reasonable instructions;
- (b) perform the Services with reasonable care and skill;
- (c) comply with all applicable laws, statutes and regulations from time to time in force;
- (d) observe all health and safety rules and regulations and any other security requirements that apply at any of the premises of our clients;
- (e) ensure your drivers are equipped with appropriate personal protective equipment (**PPE**) where we advise you that PPE is necessary for a particular site;

- (f) deal promptly with all requests for Services where we provide you with reasonable prior notice;
- (g) not create any obstruction at any delivery site and in particular you shall not leave any bin or skip where it would obstruct access to other bins, skips or site entrances;
- (h) collect bins promptly when requested to do so by us with reasonable prior notice and where you fail to do so, reimburse us in full for our costs of returning the bins to you ourselves;
- (i) provide us with full evidence of Services provided within 30 days of the relevant Service provision (including but not limited to all relevant weighbridge tickets and Environment Agency standard waste transfer notices);
- (j) procure that your drivers are dressed appropriately;
- (k) not disclose to our clients or any third parties details of the charges agreed between us for the Services;
- (l) on our request, provide us with advance details of the vehicle and driver for any collections or deliveries (including vehicle registration number and full driver name);
- (m) where we inform you that a site is classified or secret, not record the name and address of the site on any documentation (whether electronic or otherwise) nor disclose to any third party the fact that you are attending or have attended such site;
- (n) provide photographic evidence of any contaminated bin or skip;
- (o) be responsible for any damage to our clients' property arising from the acts or omissions of your agents, employees or sub-contractors including but not limited to damage to client sites caused by your vehicles;
- (p) not contact our clients directly in respect of any Services, and where we have arranged for bins or skips to be delivered by you, you agree that collection will be arranged through us and no other person;
- (q) be courteous to our employees and to the agents, employees and sub-contractors of our clients; and
- (r) access only those areas of the relevant delivery or collection site which you are authorised to access.

3. CHARGES AND PAYMENT

3.1 The charges for the Services shall be as agreed between us from time to time. The charges shall include all your costs and expenses directly or indirectly incurred in connection with the performance of the Services other than any potential excess charges clearly brought to our attention at or before the commencement of the Contract.

- 3.2 You shall not impose any price increase or rebate decrease as a result of contaminated waste without providing evidence of such contamination in accordance with clause 2.2(n).
- 3.3 You shall not charge us for damage to any bin or skip which reasonably constitutes normal wear and tear. You shall not charge us for the replacement costs of any bin or skip which has been in use for a period in excess of its reasonably anticipated serviceable life.
- 3.4 You shall invoice us on completion of the Services or at such other times as we may agree between us. Each invoice shall include such supporting information reasonably required by us to verify the accuracy of the invoice.
- 3.5 If we have exceeded any credit limit agreed between us from time to time, you shall notify us when we place the Order. Where you fail to notify us at the time of placing the Order, you shall not be entitled to subsequently suspend or cancel the Order by reason of us exceeding the agreed credit limit.
- 3.6 We shall pay your invoices in accordance with the payment terms agreed between us from time to time but in the event of our late payment, you shall not charge interest on the overdue sum or suspend the Services or refuse to supply further Services to us without first giving us written or emailed notice and allowing us two Working Days (meaning any Monday to Friday when banks in London are open for business) to pay the overdue sum.
- 3.7 We shall raise any dispute or query in respect of your invoices as soon as reasonably practicable after becoming aware of such dispute or query and both you and we will negotiate in good faith to seek to resolve any dispute as soon as reasonably possible.
- 3.8 In relation to payments disputed in good faith, you shall not charge any interest until the dispute is resolved and such interest shall be charged on the sums found or agreed to be due, from the due date until payment. Where we dispute only part of an invoice, we shall pay the undisputed part within our agreed payment terms.
- 3.9 Where we supply to you our credit or debit card details to allow you to take payments from our bank or credit card account, you shall take only agreed sums which are undisputed and due. You acknowledge that the taking of sums which are not agreed or which are not yet due could constitute a criminal offence which we reserve the right to report to the police and/or other relevant authorities. You shall securely destroy your record of our credit or debit card details immediately after taking any agreed payment.

4. INDEMNITY

You shall keep us indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to all interest, penalties and legal costs) suffered or incurred by us as a result of or in connection with any claim made against us by our clients or any other third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by you or your employees, agents or subcontractors.

5. INSURANCE AND ACCREDITATIONS

5.1 You shall have and maintain in force (for a period of 6 years after the Order) with a reputable insurance company, public liability insurance to cover the liabilities that may arise under or in connection with the Contract and you shall, on our request, produce a copy of the insurance certificate giving details of cover.

5.2 You shall have and maintain all consents, authorisations and accreditations required to carry out your business (**Consents**) and you shall, on our request, provide evidence to us of such Consents. You shall notify us promptly in the event that any Consents expire or cease to have effect or are anticipated to do so during the course of the provision of any Services to us.

6. TERMINATION

6.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 28 days of that party being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; and
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

6.2 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

6.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

6.4 In the event that you do not attend a site promptly at the date and time agreed for the supply of the relevant Services, we shall be entitled to cancel the Order without further liability to you. We shall normally cancel Orders by telephone and confirm cancellation by email.

7. GENERAL

7.1 You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of your rights or obligations under the Contract without our prior written consent.

7.2 The Contract constitutes the entire agreement between you and us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter.

7.3 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these terms and conditions or the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these terms and conditions or the Contract.

7.4 No variation of the Contract shall be effective unless it is in writing and signed by the parties (or our respective authorised representatives).

7.5 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- (a) waive that or any other right or remedy; or
- (b) prevent or restrict the further exercise of that or any other right or remedy.

7.6 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

- 7.7 No one other than a party to the Contract shall have any right to enforce any of its terms.
- 7.8 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.
- 7.9 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.