BROWN RECYCLING LIMITED
TERMS AND CONDITIONS - B2B

TERMS AND CONDITIONS OF BUSINESS (B2B)

These terms and conditions shall apply only if you have requested Services (as defined below) from us for business purposes. If you are requesting Services as a consumer, our consumer terms and conditions apply to such Services, which can be accessed via our website or are otherwise available upon request.

1. INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

(a) Applicable Laws: has the meaning given to it in clause 4.1(c).

(b) Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

(c) Charges: the charges payable by the Customer for the supply of the Services and the hire of the Waste Container(s) (as detailed in the Waste Transfer Agreement) in accordance with clause 7.

(d) Contract: the contract between the Supplier and the Customer for the supply of Services and, where applicable, the hire of Waste Container(s) in accordance with these Conditions and the Waste Transfer Agreement.

(e) Conditions: these terms and conditions (as may be varied in accordance with clause 18.7).

(f) Commencement Date: has the meaning given in clause 2.2.

(g) Customer: the person or firm who purchases Services from the Supplier.

(h) Order: the Customer's verbal or written order for Services.

(i) Services: the waste collection services and/or confidential shredding services, supplied by the Supplier to the Customer, as set out in the Waste Transfer Agreement (including services that are incidental or ancillary to such services (such as the hire of Waste Container(s) (where applicable))).

(j) Site: the Customer's premises, as set out in the Waste Transfer Agreement.

(k) Supplier: Brown Recycling Limited, a company registered in England and Wales under company number 02438711.

(l) Waste Transfer Agreement: the waste transfer note issued by the Supplier to the Customer to which these Conditions are appended or otherwise incorporated.

(m) Waste: the waste to be collected by the Supplier as part of the Services (as described in the Waste Transfer Agreement).

(n) Waste Container(s): the bins, skips or such other waste containers to be hired or otherwise supplied to the Customer by the Supplier, as set out in the Waste Transfer Agreement and any replacement of and/or addition to it.

1.2 Interpretation:

(a) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

(b) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(c) A reference to writing or written includes email but not fax.

(d) If there is an inconsistency between any of the provisions of these Conditions and the Waste Transfer Agreement, the provisions of the Waste Transfer Agreement shall prevail.

(e) Any drawings, descriptive matter or advertising issued by the Supplier and any illustrations or descriptions of the Services and/or the Waste Container(s) contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or the Waste Container(s) described in them. They shall not form part of the Contract nor have any contractual force or any bearing on the interpretation of the Contract.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase the Services in accordance with these Conditions. Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of twenty (20) Business Days from its date of issue. The Customer shall ensure that the terms of the Order are complete and accurate.

2.2 The Order will not be deemed accepted by the Supplier, and the Contract shall not be deemed to come into effect, until both parties have signed the relevant Waste Transfer Agreement relating to the Services (the date upon which both parties sign such Waste Transfer Agreement shall be the "Commencement Date").

2.3 Subject to clause 14, and unless otherwise agreed in the Waste Transfer Agreement or otherwise in writing by the Supplier, the Contract shall continue for an initial term of 12 months ("Initial Term") and shall automatically extend for 12 months ("Extended Term") at the end of the Initial Term and at the end of each Extended Term. The Supplier shall issue an updated Waste Transfer Agreement on or around the commencement of each Extended Term (each such Waste Transfer Agreement will detail the Services to be undertaken during each such Extended Term together with the applicable Charges for such Services).

2.4 The Supplier reserves the right to amend the Contract if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

2.5 These Conditions and the Waste Transfer Agreement apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3. EXCLUSIVITY

3.1 The parties agree that the Supplier will be the exclusive supplier to the Customer of the Services and the Customer shall not purchase, directly or indirectly, any services that are the same or similar to the Services from any other person during the term of the Contract without first obtaining the Supplier's prior written consent.

3.2 Nothing in the Contract shall restrict the Supplier from supplying any services to other customers.

4. WARRANTIES AND INDEMNITY

4.1 In order to facilitate the Supplier's performance of the Services (including, where applicable, the delivery of the Waste Container(s) (in accordance with clause 5) and a collection of Waste (in accordance with 6)), the Customer warrants, represents and undertakes that it shall:

(a) strictly comply with the Contract;

(b) co-operate with the Supplier in all matters relating to the Contract;

(c) comply with all applicable codes, regulations and laws from time to time in force, including (but not limited to) health and safety laws, the Waste Electrical and Electronic Equipment (WEEE) Regulations (2013), the Hazardous Waste (England and Wales) Regulations (2005),the Environmental Protection Act 1990 and the Environmental Protection (Duty of Care) Regulations 1991 (Applicable Laws);

(d) provide the Supplier, the Supplier's employees, agents, consultants and subcontractors, with access to the Site, as required (including, a suitable and safe vehicular access path) or as is otherwise requested by the Supplier;

(e) provide the Supplier with such information and materials as the Supplier may reasonably require in order to perform the Services, and ensure that such information is complete and accurate;

(f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

(g) ensure that all persons (including all employees and agents of the Supplier) entering the Site shall be safe for the purpose of their visit and specifically (but without limitation) the Customer shall implement a safe system of work for the provision of the Services;

(h) notify the Supplier on or before the date of the Contract (or immediately on the occurrence of the same, if later) of any special site conditions and safe working procedures in any way affecting the performance of the Supplier's obligations under the Contract.

4.2 The Customer shall indemnify the Supplier in full against all liabilities, costs, expenses, damages, fines (including those that may be issued by the Environment Agency) and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs

(calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with any failure by the Customer to comply with the terms of the Contract.

5. WASTE CONTAINERS

To the extent that the Supplier agrees in writing to supply Waste Container(s) to the Customer, the provisions of this clause 5 shall apply.

5.1 Delivery.

(a) The Supplier shall use reasonable endeavours to deliver the Waste Container(s) to the Delivery Location by the date specified in the Waste Transfer Agreement (Delivery Date).

(b) Time for delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Waste Container(s) by the Delivery Date that is caused by a Force Majeure Event or the Customer's failure to:

(i) provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the delivery of the Waste Container(s); and

(ii) provide all requisite materials, facilities, access and suitable working conditions to enable delivery to be carried out safely and expeditiously.

(c) Delivery of the Waste Container(s) shall be completed on the unloading of the Waste Container(s) at the Delivery Location by the Supplier's authorised representatives.

(d) If the Customer fails to accept delivery of the Waste Container(s) on the Delivery Date, then, except where such failure is caused by the Supplier's failure to comply with its obligations under the Contract:

(i) the Waste Container(s) shall be deemed to have been delivered at 9.00 am on the Delivery Date;

(ii) the Supplier shall, subject to clause 5.1(d)(iii), store the Waste Container(s) until delivery takes place, and charge the Supplier for all related costs and expenses (including insurance);

(iii) If ten (10) Business Days after the day on which the Supplier attempted delivery, the Customer has not accepted actual delivery of the Waste Container(s), the Supplier may, dispose of the Waste Container(s) as it sees fit and may terminate the Contract with immediate effect.

5.2 Title. The Waste Container(s) shall at all times remain the property of the Supplier, and the Customer shall have no right, title or interest in or to the Waste Container(s) (save the right to possession and use of the Waste Container(s) subject to the terms and conditions of the Contract).

5.3 Risk. Risk in the Waste Container(s) shall pass to the Customer on completion of delivery in accordance with clause 5.1(c) or 5.1(d)(i) (as applicable). The Waste Container(s) shall remain at the sole risk of the Customer whilst the Waste Container(s) are in the possession, custody or control of the Customer ("Risk Period") until such time as the Waste Container(s) are collected by the Supplier.

5.4 Insurance.

(a) During the Risk Period, the Customer shall (unless otherwise agreed to in writing by the Supplier), at its own expense, obtain and maintain the following insurances:

(i) insurance of the Waste Container(s) to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Supplier may from time to time nominate in writing;

(ii) insurance for such amounts as a prudent owner or operator of the Waste Container(s) would insure for, or such amount as the Supplier may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Waste Container(s); and

(iii) insurance against such other or further risks relating to the Waste Container(s) as may be required by law, together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Customer.

(b) If the Customer fails to effect or maintain any of the insurances required under the Contract, the Supplier shall in its sole discretion be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.

(c) The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Supplier and proof of premium payment to the Supplier to confirm the insurance arrangements.

5.5 Customer's obligations. The Customer warrants, represents and undertakes that it shall:

(a) prepare the Site for the hire of the Waste Container(s);

(b) ensure that the Site is suitable to enable the Supplier to perform the Services;

(c) ensure that the Supplier's access to the Site is at all times unhindered and unrestricted;

(d) ensure that the Waste Container(s) is used only for the purposes for which it is designed;

(e) not overload or improperly load the Waste Container(s) (and, for the purposes of this clause 5.5(e), the Waste Container(s) shall be deemed overloaded if the Supplier's transportation would be in breach of any Applicable Laws were it to transport the Waste Container(s));

(f) not burn or allow to be burned any matter in the Waste Container(s);

(g) unless otherwise agreed to in writing by the Supplier, not place any markings on the Waste Container(s);

(h) maintain at its own expense the Waste Container(s) in good and substantial repair in order to keep it in as good an operating condition as it was on the Commencement Date (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Waste Container(s);

(i) keep the Supplier fully informed of all material matters relating to the Contract (including, for example, the Waste and the Waste Container(s));

(j) keep the Waste Container(s) at all times at the Site and not move or attempt to move any part of the Waste Container(s) to any other location without the Supplier's prior written consent;

(k) not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of the Supplier in the Waste Container(s); and

(l) not do or permit to be done anything which could invalidate the insurances referred to in clause 5.4.

5.6 End of Contract. On termination or expiry of the Contract:

(a) the Supplier's consent to the Customer's possession of the Waste Container(s) shall terminate; and

(b) the Supplier will arrange, without notice and at the Customer's expense, to retake possession of the Waste Container(s) and for this purpose may enter the Site or any premises at which the Waste Container(s) is located.

6. WASTE COLLECTION

6.1 The Supplier shall use reasonable endeavours to supply the Services in accordance with the Contract in all material respects.

6.2 The Supplier shall use reasonable endeavours to collect the Waste from the Site on the dates specified in the Waste Transfer Agreement, but any such dates shall be estimates only and time shall not be of the essence for such collection.

Notwithstanding any times or dates agreed for the performance of the Services, the Supplier shall have the right to make such changes to the times or dates of performance of the Services due to its reasonable operational requirements as may be necessary.

6.3 Collection is deemed to have taken place once the physical possession of the Waste by the Customer has transferred to the Supplier. The Supplier will issue a ticket to the Customer for each collection completed by the Supplier (such ticket may be viewed on the Supplier's website via the Trade Portal).

6.4 In respect of the Waste, the Customer warrants, represents and undertakes that the Waste to be collected by the Supplier:

(a) belongs solely to the Customer and does not contain any waste belonging to a third party;

(b) is accurately and correctly described in the Waste Transfer Agreement;

(c) is of the kind stipulated in the Waste Transfer Agreement;

(d) does not exceed maximum weight stipulated in the Waste Transfer Agreement; and

(e) that the constituents of the Waste are compatible and stable and will not give rise to any hazard on the mixing of such constituents. If the Customer has any doubts regarding the compatibility or stability of the Waste it shall notify the Supplier immediately.

6.5 If the Supplier discovers (or is otherwise notified by a third party) that the Waste (whether before collection or after) does not comply with clause 6.4, the Supplier may (at its sole option) do any (or a number of) the following:

(a) agree to collect the conformant Waste but the Supplier remains entitled to refuse to collect the non-conformant Waste in its entirety. Any such refusal does not entitle the Customer to withhold payment of the Charges (which remain payable in full);

(b) agree to collect the non-conformant Waste (whether in full or in part) PROVIDED ALWAYS that the Supplier will be entitled to charge the Customer any additional sums as the Supplier so directs in respect of the Supplier agreeing to such collection;

(c) suspend performance of the Services until the Waste conforms with clause 6.4. Any such suspension does not entitle the Customer to withhold payment of the Charges (which remain payable in full);

(d) require the Customer to remove the non-conformant Waste from the collection until it conforms with clause 6.4 (at the Customer's cost and expense); and/or

(e) if the Waste has already been collected by the Supplier, the Supplier may return the Waste (either in full or in part) to the Customer (at the Customer's cost and expense) or charge the Customer for any additional sums as the Supplier so directs in respect of the Supplier collecting the non-conformant Waste.

6.6 The Supplier will dispose of the Waste in such a manner as the Supplier sees fit (in its sole discretion).

6.7 Unless otherwise agreed in writing by the Supplier nothing in the Contract shall require the Supplier to collect any loose waste from the Site or any other waste not previously agreed to be collected by the Supplier in the Waste Transfer Agreement.

6.8 The Supplier will not be responsible for any property (including personal effects) deposited by the Customer and will in no way be liable for any loss or damage to such property or in any way be bound to return any Waste to the Customer.

7. DEPOSIT

7.1 If so requested by the Supplier, the Customer shall, on the Commencement Date, and on the commencement of each Extended Term (if applicable), pay (on the Supplier's demand) a deposit in the amount stipulated on the Waste Transfer Agreement to the Supplier (Deposit).

7.2 If the Customer fails to make any payment of the Charges (in whole or in part), or causes any loss or damage to any Waste Container(s) supplied, the Supplier shall be entitled to apply the Deposit against such default, loss or damage.

8. CHARGES AND PAYMENT

8.1 The Charges for the Services are as detailed in the Waste Transfer Agreement (or otherwise in writing by the Supplier) and such Charges shall be payable in accordance with these Conditions unless otherwise set out in the Waste Transfer Agreement or in writing by the Supplier.

8.2 The Supplier shall invoice the Customer for the Services at the end of the month for the Services that have been performed by the Supplier for that calendar month.

8.3 All invoices shall be payable within 30 days of the date of each invoice.

8.4 The Supplier shall be entitled to submit additional invoices at regular intervals for the following (which, for the avoidance of doubt, shall be payable in addition to the Charges and the amounts for which will be notified to the Customer by the Supplier from time to time):

(a) any additional Services performed in each calendar month by the Supplier beyond those anticipated in the Waste Transfer Agreement;

(b) any Waste that is collected by the Supplier beyond that anticipated in the Waste Transfer Agreement; and

(c) any Waste collections that are in excess of the maximum permitted weight (as detailed in the Waste Transfer Agreement) per Waste Container.

8.5 The Supplier shall be entitled to charge an additional rate (at the rate specified in the Waste Transfer Agreement (or otherwise in writing by the Supplier) for any time worked by individuals whom it engages on the Services that are outside the Supplier's usual business hours.

8.6 The Supplier reserves the right to amend the Charges at any time to reflect any increase in the cost to the Supplier to provide the Services (whether arising as a result of any changes to Applicable Laws, the cost of materials, any increase in the cost to the Supplier of transporting the Waste, any increase in the cost to the Supplier in disposing of the Waste or otherwise).

8.7 The Customer shall pay each invoice submitted by the Supplier in full and in cleared funds to a bank account nominated in writing by the Supplier. Time for payment shall be of the essence of the Contract.

8.8 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

8.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8.10 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's right or remedies under clause 14 or otherwise, the Supplier shall pay the prescribed statutory rate of interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment.

9. TRADE CUSTOMER PORTAL

If the Services includes access to the Trade Customer Portal, the provisions of this clause 9 shall apply.

9.1 The Supplier grants to the Customer a non-exclusive, non-transferable, revocable licence to use the Trade Customer Portal for the term of the Contract.

9.2 The Customer acknowledges and agrees that all intellectual property rights in the Trade Customer Portal belong and shall belong to the Supplier, and the Customer shall have no rights in or to the Trade Customer Portal other than the right to use it in accordance with the terms of the Contract.

9.3 The Customer shall:
(a) ensure that access to the Trade Customer Portal is only made available to authorised employees and that all passwords or other security details are maintained with adequate security so as to avoid unauthorised access to the Trade Customer Portal;
(b) only use the Trade Customer Portal for its business operations and not for any other purpose; and
(c) adhere to any applicable terms of use issued by the Supplier from time to time.

9.4 The Customer shall indemnify the Supplier for all costs, losses and expense suffered or incurred arising out of or in connection with any unlawful or authorised access to the Trade Customer Portal, or any misuse of the Trade Customer Portal by the Customer, its employees, agents, and consultants.

10. CREDIT LIMITS

The Supplier may set and vary credit limits from time to time and suspend performance of the Contract if the Customer exceeds such credit limit.

11. RECORDS

11.1 The Customer shall maintain all appropriate records as are required by Applicable Laws and, to the extent that the Supplier requests to inspect such records, the Customer shall make such records available to the Supplier for inspection.

11.2 If there is any discrepancy between the records of the Customer and the records of the Supplier in respect of the Services rendered and/or with respect to any other matter of discrepancy that arises under the Contract (including, but not limited to, the contents of the Waste that has been collected and the Services performed for a particular month) the records of the Supplier shall prevail.

11.3 If any discrepancy arises with respect to the contents of the Waste that has been collected, the Customer will provide reasonable assistance to the Supplier to investigate any such discrepancy.

12. CONFIDENTIALITY

12.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.

12.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

13. LIMITATION OF LIABILITY

13.1 The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

13.2 The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

13.3 Nothing in the Contract limits any liability which cannot legally be limited including liability for:

(a) death or personal injury caused by negligence;
(b) fraud or fraudulent misrepresentation; and
(c) any matter in respect of which it would be unlawful for the parties to exclude or restrict liability.

13.4 Subject to clause 13.3, the Supplier's total liability to the Customer for breaches occurring within any contract year (being a 12 month period commencing with the Commencement Date or any anniversary of it) shall not exceed the sums paid or payable in the contract year in which the breaches occurred.

13.5 Subject to clause 13.3, the Supplier shall not be liable under the Contract for any:
(a) loss of profits;
(b) loss of sales or business;
(c) loss of agreements or contracts;
(d) loss of anticipated savings;
(e) loss of use or corruption of software, data or information;
(f) loss of or damage to goodwill; and
(g) indirect or consequential loss.

13.6 Subject to clause 13.3, all implied terms and conditions as to the quality or performance of the Waste Container(s) and any other goods or services provided under the Contract are, to the fullest extent permitted by law, excluded from the Contract.

14. SUSPENSION

14.1 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

(a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
(b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 14; and

(c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

15. TERMINATION

15.1 Either party may give written notice to the other party, not later than 3 months before the end of the Initial Term or the relevant Extended Term (in each case as defined in clause 3), to terminate the Contract at the end of the Initial Term or the relevant Extended Term, as the case may be.

15.2 Either party may, with the express written agreement of the other party, terminate the Contract at any time and for any reason prior to the expiry of the Initial Term or the Extended Term (as applicable).

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

(a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within fourteen (14) calendar days after receipt of notice 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), obtaining a moratorium, 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 or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(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; or
(d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
(e) the Customer fails to pay any amount due under the Contract on the due date for payment; or
(f) there is a change of control of the Customer. The word "control" for these purposes has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression "change of control" shall be construed accordingly.

15.4 The Contract shall automatically terminate if, in the Supplier's reasonable opinion or the opinion of its insurer(s), the Waste Container(s) is/are damaged beyond repair, lost, stolen, seized or confiscated.

16. CONSEQUENCES OF TERMINATION
16.1 On termination or expiry of the Contract:

(a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest; and
(b) without prejudice to any other rights or remedies of the Supplier, the Customer shall pay to the Supplier on demand any costs and expenses incurred by the Supplier in recovering the Waste Container(s) or in collecting any sums due under the Contract (including any storage, insurance, repair, transport, legal and costs).

16.2 To the extent that:
(a) the Customer seeks to exercise its right to terminate under clause 15.2, and the Supplier provides it's written agreement to such early termination; or
(b) the Supplier exercises its right to terminate under clause 15.3,

then without prejudice to clause 16, the Customer shall pay to the Supplier (on the Supplier's demand) an amount equal to the Charges that are payable for the remainder of the Initial Term or the Extended Term (as applicable). The Customer acknowledges and agrees that such amount is payable in order to compensate the Supplier for the loss of the Contract in the event that the Customer wishes, and the Supplier agrees, to terminate the Contract prior to the expiry of the Initial Term or the relevant Extended Term (as the case may be).

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

16.4 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

17. FORCE MAJEURE
The Supplier shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a "Force Majeure Event"). In such circumstances the Supplier shall be entitled to a reasonable extension of the time for performing such obligations.

18. GENERAL
18.1 Assignment and other dealings.
(a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
(b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

18.2 Notices.
(a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
(i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
(ii) sent by email to the address specified in the Waste Transfer Agreement.
(b) Any notice shall be deemed to have been received:
(i) if delivered by hand, at the time the notice is left at the proper address;
(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
(iii) email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 18.2(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
(c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
(d) A notice given under the Contract is not valid if sent by fax.

18.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 18.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

18.4 Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18.5 Entire agreement.
(a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
(b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract.
(c) Nothing in this clause shall limit or exclude any liability for fraud.

18.6 Third party rights.
(a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
(b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

18.7 Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

18.8 Governing law. 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.

18.9 Jurisdiction. 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.

Last updated: 9 July 2021.