

## GPT Waste Management Limited General Terms and Conditions of Contract

### 1. INTERPRETATION

The definitions and rules of interpretation in this condition apply in these terms and conditions (**Conditions**)

**Broker:** is GPT Waste Management Limited who are an establishment or undertaking that arranges on behalf of others the transport, disposal or recovery of controlled waste, but does not hold or handle it themselves.

**Carrier** the person appointed by the Broker to transport the controlled waste pursuant to the Contract.

**Confirmation Order:** written confirmation from the Broker to the Customer to confirm the Services to be provided and the price for those Services.

**Contract:** the Customer's Purchase Order and the Broker's acceptance of it by Confirmation Order, or the Customer's acceptance of a quotation for Services by the Broker under condition 2.2.

**Controlled waste** As defined by the Environmental Protection Act 1990 and in particular Part 2 of the said Act together with all regulations made pursuant to Part 2 of that Act the Controlled Waste Regulations 1992 and the Environmental Permitting (England and Wales) Regulations 2007, namely household, commercial or industrial waste, such as:

- waste from a house, a shop, an office, a factory, or any other trade or business premises
- unwanted surplus substances
- building or demolition waste
- anything which is disposed of because it is broken, worn out, contaminated or spoiled in some other way.

**Customer:** the person, firm or company who purchases Products and Services from the Broker.

**Customer Purchase Order:** the Customers acceptance of a quotation for Services by the Broker.

**Customer's Equipment:** any equipment, systems, cabling or facilities provided by the Customer and used directly or indirectly in the supply of the Services.

**Document:** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

**In-put Material:** all Documents, information and materials provided by the Customer relating to the Services including (without limitation), computer programs, data, reports and specifications

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Hazardous Waste:** as defined under the The Hazardous Waste Regulations 2005 and The List of Waste Regulations 2005 and successor Regulations.

**Pre-existing Materials:** all Documents, information and materials provided by the Broker relating to the Services which existed prior to the commencement of the Contract including:-

**Services:** the services to be provided by the Broker under the Contract as set out in the Confirmation Order together with any products and / or other services which the Broker provides, or agrees to provide, to the Customer.

**Broker's Equipment:** any equipment, including tools, systems, cabling or facilities, provided by the Broker or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

- 1.1 Headings in these conditions shall not affect their interpretation.
- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 The schedules form part of the Contract.
- 1.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.5 A reference to **writing** or **written** includes faxes and e-mail.

- 1.6 Any obligation in the Contract on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.7 References to conditions and schedules are to the conditions and schedules of the Contract.

## **2. APPLICATION OF CONDITIONS**

2.1 These Conditions shall:

- (a) apply to and be incorporated into the Contract; and
- (b) prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's Purchase Order, acceptance of a quotation, or specification or other Document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.

2.2 The Customer's Purchase Order, or the Customer's acceptance of a quotation for Services by the Broker, constitutes an offer by the Customer to purchase the Services specified in it on these Conditions. No offer placed by the Customer shall be accepted by the Broker other than:

- (a) by a Confirmation Order issued and executed by the Broker; or
- (b) (if earlier) by the Broker starting to provide the Services,

when a contract for the supply and purchase of the Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any Customer Purchase Order or other Document shall not govern the Contract.

2.3 Quotations are given by the Broker on the basis that no Contract shall come into existence except in accordance with condition 2.2. Any quotation is valid for a period of 30 days from its date, provided that the Broker has not previously withdrawn it.

## **3. COMMENCEMENT AND DURATION**

3.1 The Services supplied under the Contract shall be provided by the Broker to the Customer on the date specified in the Confirmation Order.

#### **4. BROKER'S OBLIGATIONS**

- 4.1 The Broker shall use reasonable endeavours to provide the Services to the Customer in accordance with the terms of the Confirmation Order.
- 4.2 The Broker shall use reasonable endeavours to meet any performance dates specified in the Confirmation Order but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.3 The Broker shall use reasonable endeavours to observe all health and safety rules and regulations, and any other reasonable security requirements that apply at the Customer's premises and that have been communicated to it under condition 5.1(h), provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.
- 4.4 The Broker will obtain and maintain all necessary permits and consents and comply with all relevant legislation in relation to the Broker obligations for the Service provided.
- 4.5 The Broker will make reasonable checks to ensure that waste carrier arranged to move the waste is registered with the Environmental Agency, or that the waste carriers have a registered exemption.
- 4.6 The Broker will ensure that the site chosen for the waste disposal or recovery is an appropriately permitted or exempt site.

#### **5. CUSTOMER'S OBLIGATIONS**

- 5.1 The Customer shall:
- (a) co-operate with the Broker in all matters relating to the Services;
  - (b) provide the Broker, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Customer's premises, office accommodation, data and other facilities as required by the Broker;
  - (c) provide to the Broker, in a timely manner, such In-put Material and other information as the Broker may require and ensure that it is accurate in all material respects;
  - (d) ensure that it uses appropriate containment or packaging for the waste;

- (e) the Waste Transfer Notice for Non Hazardous Substances is completed prior to the Carrier's arrival for collection and that the waste is fully and accurately described on the waste transfer note in accordance with current legislative requirements
- (f) the Consignment Notice for Hazardous Substances is completed prior to the Carrier's arrival for collection and that the waste is fully and accurately described on the waste transfer note in accordance with current legislative requirements
- (g) be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its premises in accordance with all applicable laws, and including the siting or loading and use of the equipment, before and during the supply of the Services at those premises, and informing the Broker of all of the Customer's obligations and actions under this condition 5.1(g)]. The Customer shall be responsible for the safety of all persons, including employees and agents of the Broker entering the Customer's premises;
- (h) keep, maintain and ensure the Broker's equipment is kept in good condition, provide adequate insurance cover for the Broker's equipment whilst on the customer's premises, and the customer shall not dispose of or use the Broker's Equipment other than in accordance with the Broker's written instructions or authorisation;
- (i) obtain and maintain all necessary permits and consents and comply with all relevant legislation in relation to the Services, the installation of the Broker's Equipment, the use of In-put Material and the use of the Customer's Equipment in relation to the Broker's Equipment insofar as such permits, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Services are to start;
- (j) keep, maintain and insure the Broker's Equipment in good condition, and shall not dispose of or use the Broker's Equipment other than in accordance with the Broker's written instructions or authorisation; and
- (k) Provide the Broker with a full and detailed description of the Controlled Waste which is the subject matter of the contract for the purposes of paragraphs (e) and (f) above and for the avoidance of doubt, the Customer HEREBY acknowledges that

the Broker will place absolute upon reliance on the description so provided

- 5.2 If the Broker's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Broker shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.
- 5.3 The Customer shall be liable to pay to the Broker, on demand, all reasonable costs, charges or losses sustained or incurred by the Broker (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Broker confirming such costs, charges and losses to the Customer in writing.
- 5.4 The Customer shall not, without the prior written consent of the Broker, at any time from the date of the Contract to the expiry of 12 months after the last date of supply of the Services, solicit or entice away from the Broker or employ (or attempt to employ) any person who is, or has been, engaged as an employee, consultant or subcontractor of the Broker in the provision of the Services.

**6. CHARGES AND PAYMENT**

- 6.1 In consideration of the provision of the Services by the Broker, the Customer shall pay the charges as agreed and set out in the Confirmation Order and then payable as per the subsequently raised invoice
- 6.2 The total price for the Services will be confirmed in an invoice. The price quoted will be exclusive of any applicable Value Added Tax, which the Customer shall be additionally liable to pay to the Broker at the prevailing rate at the date on the invoice.
- 6.3 Where additional services have been supplied for the removal of non-scheduled containerised waste then a charge will be made to the Customer. This charge will be made in arrears at the end of that invoicing period of the Broker.

- 6.4 The Customer shall pay each invoice submitted to it by the Broker, in full and in cleared funds, within 30 days of the date on the invoice.
- 6.5 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Broker on the due date, the Broker may:
- (a) charge interest on such sum from the due date for payment at the annual rate of 5 % above the base lending rate from time to time of National Westminster Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand. The Broker may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
  - (b) suspend all Services until payment has been made in full.
- 6.6 Time for payment shall be of the essence of the Contract.
- 6.7 All sums payable to the Broker under the Contract shall become due immediately on its termination, despite any other provision. This condition 6.7 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 6.8 The Broker may, without prejudice to any other rights it may have, set off any liability of the Customer to the Broker against any liability of the Broker to the Customer.

## **7. LOOSE WASTE**

- 7.1 Provided the Customer has indicated in writing his willingness to pay the fee quoted by the Broker based on a site assessment carried out by the Broker for the removal of excess waste, the Broker will occasionally remove excess waste. If removal of loose waste occurs on a regular basis then the Broker reserves the right to review the Customer's container requirements.

## **8. INTELLECTUAL PROPERTY RIGHTS**

- 8.1 As between the Customer and the Broker, all Intellectual Property Rights and all other rights in the Deliverables and the Pre-existing Materials shall be owned by the Broker. Subject to condition 8.2, the Broker licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables and the

Services. If the Broker terminates the Contract under condition 11.1, this licence shall automatically terminate.

- 8.2 The Customer acknowledges that, where the Broker does not own any Pre-existing Materials, the Customer's use of rights in Pre-existing Materials is conditional on the Broker obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Broker to license such rights to the Customer.

## **9. CONFIDENTIALITY AND THE BROKER'S PROPERTY**

- 9.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Broker, its employees, agents, consultants or subcontractors and any other confidential information concerning the Broker's business or its products which the Customer may obtain.

- 9.2 The Customer may disclose such information:

- (a) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Customer's obligations under the Contract; and
- (b) as may be required by law, court order or any governmental or regulatory authority.

- 9.3 The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 9.

- 9.4 The Customer shall not use any such information for any purpose other than to perform its obligations under the Contract.

- 9.5 All materials, equipment and tools, drawings, specifications and data supplied by the Broker to the Customer (including Pre-existing Materials and the Broker's Equipment) shall, at all times, be and remain (as between the Broker and the Customer) the exclusive property of the Broker, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Broker, and shall not be disposed of or used other than in accordance with the Broker's written instructions or authorisation.

**10. LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION**

- 10.1 This condition 10 sets out the entire financial liability of the Broker (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:
- (a) any breach of the Contract including any deliberate breach of this Contract by the Broker, or its employees, agents or subcontractors;
  - (b) any use made by the Customer of the Services, the Deliverables or any part of them; and
  - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 10.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these Conditions limits or excludes the liability of the Broker:
- (a) for death or personal injury resulting from negligence; or
  - (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Broker; or
  - (c) for any liability incurred by the Customer as a result of any breach by the Broker of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.
- 10.4 Subject to condition 10.2 and condition 10.3
- (a) the Broker shall not be liable for loss of profits; or loss of business; or depletion of goodwill and/or similar losses; or loss of anticipated savings; or loss of goods; or loss of contract; or loss of use; or loss of corruption of data or information; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
  - (b) the Broker's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the price paid for the Services.

## 11. TERMINATION

11.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other on giving the other not less than 3 months written notice or immediately on giving notice to the other if:

- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
- (b) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or [(being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
- (g) a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or

- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 11.1(c) to condition 11.1(i) (inclusive); or
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (l) there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001).

11.2 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Broker all of the Broker's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Broker may submit an invoice, which shall be payable immediately on receipt;
- (b) the Customer shall immediately return all of the Broker's Equipment, Pre-existing Materials and Deliverables. If the Customer fails to do so, then the Broker may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and
- (c) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.

11.3 On termination of the Contract (however arising), the following conditions shall survive and continue in full force and effect:

- (a) condition 8;
- (b) condition 9;
- (c) condition 10;
- (d) condition 11; and
- (e) condition 21.

## **12. FORCE MAJEURE**

The Broker shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Broker or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Brokers or subcontractors.

## **13. VARIATION**

13.1 The Broker may, from time to time and without notice, change the Services or service days in order to comply with any applicable safety or statutory requirements, or to meet operational requirements provided that such changes do not materially affect the nature, scope of, or the charges for the Services. The Broker shall where possible notify the Customer in advance of such changes.

13.2 If through operational difficulties the Broker is not able to provide the Services on the scheduled day, the Broker reserves the right to re-schedule the Services to the earliest possible opportunity without liability to the Customer.

13.3 Subject to condition 13.1, no variation of the Contract or these Conditions shall be valid unless it is in writing and signed by the Customer and an Authorised Officer of the Broker.

13.4 The Broker's employees or agents are not authorised to make any representations concerning the Services unless confirmed by an Authorised Officer of the Broker in writing. The Customer acknowledges that it does not rely on and waives any claims for breach of any such representations which are so not confirmed. The Customer's reliance upon such unauthorised representations is entirely at the Customer's own risk and the Broker will not be held liable in that regard.

## **14. WAIVER**

14.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure

or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

14.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

## **15. SEVERANCE**

15.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.

15.2 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable and, to the greatest extent possible, achieves the parties' original commercial intention.

## **16. ENTIRE AGREEMENT**

16.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

16.2 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract), as expressly provided in the Contract.

16.3 Nothing in this condition shall limit or exclude any liability for fraud.

## **17. ASSIGNMENT**

17.1 The Customer shall not, without the prior written consent of the Broker, assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

17.2 The Broker may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

17.3 Each party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.

**18. NO PARTNERSHIP OR AGENCY**

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

**19. RIGHTS OF THIRD PARTIES**

A person who is not a party to the Contract shall not have any rights under or in connection with it.

**20. NOTICES**

20.1 Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and to be referenced the Operations or Compliance department, or as otherwise specified by the relevant party by notice in writing to the other party.

**21. GOVERNING LAW AND JURISDICTION**

21.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

21.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter or formation (including non-contractual disputes or claims).