

TOTAL AGGREGATE RECYCLING SOLUTIONS LTD

STANDARD TERMS AND CONDITIONS OF BUSINESS FOR THE SUPPLY OF GOODS AND SERVICES

With effect from 18th December 2020

1. Definitions

In these conditions: -

the “**Account**” means the amount maintained by the Supplier for the Buyer to use in connection with these terms and conditions.

the “**Buyer**” means the customer, person, firm or company purchasing goods and services from or contracting with the Supplier;

a “**Container**” includes all skips, roll-on roll-off bins, Tipper & Grab vehicles, Tipper & Grab vehicles and other items used for the containment of any waste;

the “**Goods**” mean the aggregates or other goods which the Supplier is to supply to the Buyer in accordance with these conditions;

the “**Quotation**” means the written quotation for Goods and or Services which the Supplier is to supply to the Buyer;

the “**Services**” mean the Services, if any, which are supplied, subject to an order from the Buyer in accordance with these conditions;

the “**Specification**” includes all drawings, plans, or data relating to Goods and Services supplied to the Buyer;

the “**Supplier**” means Total Aggregate Recycling Solutions Ltd; and

the “**VAT**” means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax.

2. Basis of the Sale

2.1. The Quotation constitutes an offer by the Buyer to purchase Goods and Services in accordance with these terms and conditions. Acceptance by the Supplier of the Quotation from a Buyer shall be upon these terms and conditions and shall override any other terms and conditions stipulated or incorporated by the Buyer in its order or in any negotiations whether received prior to or after the Quotation. Variations or representations will only be binding on the Supplier if confirmed in writing by an authorised officer of the Supplier.

2.2. The Buyer shall place an order for Goods or Services by signing and returning the Quotation to the Supplier. This is in addition to any order placed with the Supplier by the Buyer. By engaging the Supplier’s Services after receipt of the Quotation the Buyer agrees to purchase Goods or Services subject to these conditions. Please sign and return the Quotation to the Supplier.

2.3. Any Quotation given by the Supplier shall not constitute an offer and is only valid for a period of 14 working days from its date of issue.

2.4. All of these terms and conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. The Goods

3.1. All descriptions and illustrations contained in the Supplier's catalogue, price list and advertisements or otherwise communicated to the Buyer are intended to present merely a general idea of the Goods described and shall not form part of the contract.

3.2. If a sample of Goods supplied but not manufactured by the Supplier was exhibited to and

inspected by the Buyer, it is hereby agreed that such samples were so exhibited and inspected solely to enable the Buyer to judge for himself the quality of the Goods and not so as to constitute a sale by sample.

3.3. The Supplier reserves the right to deliver 10% more or less than the quantity stipulated on the Quotation and the Buyer agrees to accept such quantity delivered in satisfaction of the Quotation.

4. The Services

4.1. Services supplied are as described in the Quotation given by the Supplier to the Buyer and accepted by the Buyer subject to these conditions.

4.2. The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Buyer in any such event.

5. Specifications

5.1. Specifications apply to quality and description of Goods and Services to be supplied by the Supplier to the Buyer, subject to these conditions, for which a Quotation has been given by the Supplier to the Buyer and shall be part of the contract between the Supplier and Buyer.

5.2. Any variation from Specifications, whether from drawings, plans or other data relating to Goods or Services shall be agreed in writing between the Supplier and the Buyer before any variation can take place.

6. Price

6.1. Subject to 6.3 below the price of Goods and Services is as stated on the Quotation (exclusive of VAT).

6.2. Where carriage, insurance, storage or other charges are shown separately from the price of Goods, they are nevertheless payable by the Buyer at the same time as if they form part of the price and shall be treated as such for the purposes of these conditions.

6.3. Prices are subject to alteration by the Supplier (to reflect changes in costs of materials, labour, transport, etc.) to those ruling at date of despatch save where a fixed price has been agreed. The Buyer will be notified as soon as possible of such alteration. Where the alteration exceeds 5% of the net price of the Goods and Services the Buyer shall have the right to cancel his order, provided such cancellation is received by the Supplier within seven working days of the date of notification.

6.4. For Container hire and/or tipper hire any Quotation is based on the work being done in normal working hours and if done during overtime at the Buyer's request an additional charge may be made.

7. Cancellation

Without prejudice to the right of cancellation contained in 6.3 the Buyer may not cancel the contract without the written consent of the Supplier. If such consent is given, it is made on the express condition that the Buyer shall indemnify the Supplier against all loss, damage, claims or actions arising out of such cancellation unless otherwise agreed in writing. The only exception to this being for Container and tipper hire when one clear working days' notice is required for cancellation and can be given verbally.

8. Payment

8.1. Payment shall be made by cash on delivery or by prior arrangement by the 20th of the month following invoicing relating to the Goods or Services, but the Supplier reserves the right to require payment for the Goods or Services prior to delivery or dispatch.

8.2. In the case of overdue payment, the Supplier may charge interest to the Buyer on the amount overdue calculated on a daily basis at the rate of **4%** per month over National Westminster Bank base lending rate for the time being without prejudice to any other rights of the Supplier.

8.3. Payment on or before the due date is of the essence of the contract and is a condition precedent for any future deliveries to the Buyer or to its order.

8.4. Where the Supplier has agreed that the Goods or Services may be paid for by instalments or under terms of credit agreed in writing between the parties any failure by the Buyer to pay an instalment when due shall entitle the Supplier to treat such failure as the Buyer's repudiation of the whole contract without prejudice to its other rights to recover damages for that breach.

8.5. All payments due from the Buyer under these conditions shall be made without any set off, deduction or deferment of any nature.

8.6. Notwithstanding the provisions of clause 8.1, upon the occurrence of any event under clause 20.1 any period of credit allowed for the Buyer on any contract with the Supplier, whenever made, shall cease to apply and payment for all Goods or Services shall be or be deemed to have become due forthwith on delivery.

8.7. The Supplier reserves the right to charge £25 for every letter that is required to pursue prompt payment of invoices where invoices are not settled within the time for payment as outlined in clause 8.1. Such letters shall not be sent more frequently than once per week.

8.8. The Supplier may at any time, without notice to the Buyer, set off any liability of the Buyer to the Supplier against any liability of the Supplier to the Buyer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under these terms and conditions. If any liability set off is expressed in different currencies, the Supplier may convert a liability at the market rate of exchange for the purpose of set off. Any exercise by the Supplier of its rights under this clause shall not limit or affect any other right or remedies available to it under these terms and conditions or otherwise.

8.9. Should the Buyer exceed any agreed credit limit set by the Supplier then the Buyer will be required to make a payment to bring the account back within the agreed credit limit before any further Goods or Services are supplied by the Supplier.

9. Delivery

9.1. Any time or date specified for delivery is given in good faith as an estimate only and the Supplier shall not be liable for any direct or indirect loss, damage or expense howsoever arising from any delay in delivery.

9.2. The Supplier may deliver by instalments or deliver and/or collect Containers and/or haul waste by tippers and bulk trailers and may treat each delivery as a separate contract.

9.3. The Buyer shall accept deliveries of Goods or Services at the address stated on the purchase order when offered and shall be liable for any additional costs suffered by the Supplier in the event of wrongful refusal or delay in accepting delivery, in failing to provide premises, services or information for the Supplier to effect safe delivery, or in the event of future deliveries being withheld through the Buyer's non-payment.

Where Buyer is to collect

9.4. Delivery shall take place ex-works the Supplier, who shall notify the Buyer when the Goods are ready for delivery. If the Goods are not collected by or on behalf of the Buyer within fourteen days of the date of such notification the Supplier shall arrange for transportation and delivery of the Goods to the premises of the Buyer at the Buyer's risk and the Buyer shall reimburse the Supplier forthwith on demand the costs and expense thereof the Buyer will be liable for storage charges thereafter at such rate as shall be determined from time to time by

the Supplier and for all expenses incurred by the Supplier as a consequence of the failure to take delivery (whether or not the Supplier was under any obligation to incur such expenses)

10. Title - Containers

10.1. Property in any Container supplied under these conditions shall remain that of the Supplier and shall not pass to the Buyer.

10.2. The Buyer will indemnify the Supplier against any loss or deterioration of any Container while it remains the property of the Supplier and will keep any Container properly insured not for less than a cost of a new replacement.

10.3. Without prejudice to any other rights the Supplier may have, the Supplier may at any time recover any Container provided to the Buyer and the Buyer agrees that the Supplier, its agents or employees may enter on the Buyer's premises and remove the Container, if any of the events in clause 20(a)-(f) occur. Where this applies, the Supplier may empty the Container on the Buyer's premises if the Container has not been paid for or any money is owing to the Supplier.

10.4. Ownership of the contents of any Container collected from the Buyer shall pass to the Supplier upon collection unless otherwise agreed in writing.

11. Raw material provided by the Buyer

11.1. Where the Buyer supplies the Supplier with its own raw material for crushing and or processing the Buyer transfers all title free of charge in the raw material to the Supplier on delivery of the raw material to the Supplier. The Buyer shall regain title in the material provided to the Supplier once the Buyer has paid to the Supplier all sums owed (under this or any other contract) by the Buyer to the Supplier.

11.2. The Supplier shall be under no obligation to the Buyer to re supply the Buyer with the raw material the Buyer supplies once it has been processed, but the Supplier shall be entitled to supply the Buyer with suitable alternative materials. Risk in the raw material shall remain with the Buyer in accordance with clause 18.4 until the Goods are delivered.

12. Retention of Title

12.1. Property in the Goods shall not pass to the Buyer until the Buyer has paid to the Supplier all sums owed (under this or any other contract) by the Buyer to the Supplier. The Goods shall be at the risk of the Buyer on delivery.

12.2. The Buyer will indemnify the Supplier against any loss or deterioration in the Goods while they remain the property of the Supplier and will keep the Goods properly insured for not less than their contract value.

12.3. Without prejudice to any other rights the Supplier may have, the Supplier may recover the Goods and the Buyer agrees that the Supplier, its agents or employees may enter on the Buyer's premises and remove the Goods at any time, if any of the events in clause 20 (a)-(f) occur and property in the Goods has not passed to the Buyer.

12.4. Until property in the Goods has passed to the Buyer, the Buyer:

- (a) shall not pledge the Goods or documents of title thereon or allow any lien to arise thereon
- (b) shall store the Goods on its premises separately from its own goods and those of any other person and in a manner which makes them readily identifiable as goods of the Supplier
- (c) shall not deal with or dispose of the Goods or documents of title thereto or any interest therein (other than by sale to an independent purchaser buying entirely in the ordinary course of the Buyer's business)
- (d) hold itself out as the Supplier's agent in respect of the Goods.

12.5. If payment of any sum is overdue the Supplier shall have the right to commence proceedings against the Buyer for the price, notwithstanding that property in the Goods has not yet passed to the Buyer.

13. Warranties

13.1. The Supplier hereby warrants that all Services shall be provided with reasonable skill and care and that Goods are free from any material defect in workmanship and materials and correspond with any agreed written Specification but the Supplier's liabilities under this warranty shall be limited to making available free of charge the labour and materials required to make good any such defects or (at the Supplier's option) replacing any defective Goods. The Supplier's liability under this warranty is also conditional upon:

(a) written notice of the defect being given to the Supplier within 14 days after discovery of the same and in any event within 3 months after either the date of delivery or the date on which the Buyer was informed that the Goods are ready for delivery or any Services supplied are completed whichever first occurs; and

(b) the Buyer not making any further use of such Goods after giving a notice in accordance with clause 13.1(a); and

(c) the Goods having been properly stored and used by the Buyer prior to the defect occurring; and

(d) the Goods and Services supplied and work completed by Supplier not having been subjected to any abnormal or improper use or modification; and

(e) the Goods having been returned at the Supplier's request but at the Buyer's expense for inspection; and

(f) any Container having been supplied in fulfilment of the Services having been stored correctly and not having been submitted to improper use.

13.2. The warranty contained in 13.1 above is given in lieu of and shall be deemed to exclude all other warranties and conditions whether express or implied relating to the Goods and/or Services whether arising by common law, statute or otherwise other than that relating to title to the Goods.

13.3. Where the Buyer does not deal as a consumer within the meaning of the Unfair Contract Terms Act 1977 the Buyer has satisfied itself as to the suitability of the Goods for use or resale in accordance with its own specialised knowledge and skill.

14. Buyer's Obligations for Containers

14.1. All hazardous waste and/or products or material loaded by the Buyer into any Container provided by the Supplier must be marked by the Buyer with international danger symbols and display the name of the material in English. Transport and other documents must include declarations of hazard and the name of the material in English. The waste and/or hazardous products or material loaded into any Container must be accompanied by emergency information in English in the form of written instructions, labels or markings. Both the Supplier and the Buyer shall comply with any statutory regulations and observe any codes of practice pertaining to the carriage of hazardous goods.

14.2. The Buyer undertakes to fill the Container within the period of any licence granted under the Highways Act 1980 and to give the Supplier notice of its readiness for collection.

14.3. The Buyer shall give the Supplier one clear working days' notice to terminate the hiring of a Container.

14.4. The Buyer agrees that it shall not attempt to move any Container delivered by the Supplier to any location that might make it less accessible for collection. In the event that contrary to this clause the Buyer does so move any Container then it agrees to accept and shall indemnify the Supplier against any loss or damage that occurs to the Supplier's the Buyer's or third party's property which arises as a result of the Supplier attempting to collect a Container which has been moved from its original point of delivery.

14.5. Unless previously agreed in writing, the Supplier shall itself provide marker cones by day and marker cones plus safety lights during the hours of darkness on the Container as required by the Highways Act 1980 if the same is placed on the Public Highway (including grass verges and footpaths or pavements) or anywhere else where damage to property or injury to third parties is reasonably foreseeable.

14.6. For any Container placed on the Public Highway as in clause 14.5 it is the Buyer's responsibility to make sure any Container hired to it has marker cones in place by day and marker cones plus safety lights in place during the hours of darkness. The Buyer is responsible for checking that safety lights are alight and working correctly. The Buyer is also responsible for informing the Supplier of any missing or damaged marker cones or safety lights, this should be done as soon as possible to enable both the Supplier and the Buyer to comply with clause 14.5.

14.7. The Buyer shall reimburse the Supplier in respect of any loss or damage to any Container whilst on hire to them from whatever cause the same may arise (fair wear and tear excepted). The Buyer shall also fully indemnify the Supplier in respect of any claim for injuries to persons or property arising out of the use of any Container whilst on hire to them however the same may be caused to arise, and in particular the Buyer undertakes:

(a) not to light fires in the Container nor to burn anything therein;

(b) not to place any corrosive acid or noxious substance nor liquid cement or liquid concrete in the Container;

(c) to ensure that the Container is not filled above the level of the sides thereof;

(d) to pay all the extra expense and costs including possibly a new Container which may result from the non-observance of the above.

14.8. The Buyer shall not overload any Container. Overloaded Containers will not be removed until excess has been unloaded at the Buyer's liability and expense.

14.9. The Buyer shall ensure that it has read and understood the 'Environmental Protection Act 1990 Notice' appearing at the end of these terms and conditions and shall ensure that it fully understands its obligations arising under the Environmental Protection Act 1990 and all other applicable legislation and where it does not fully understand its obligations it shall seek appropriate legal advice before entering into this contract.

15. Buyer's Warranties - Containers

15.1. The Buyer warrants that it will conform with all statutory enactments and regulations and byelaws and regulations of local or other statutory authorities that apply to the waste material

15.2. The Buyer warrants with respect to each Container ordered to be placed other than on private property:

(a) that it will ensure the observation and performance at all times of all the conditions subject to which the permission of the Highways Authority under section 31 Highways Act 1980 is granted and in particular will ensure that the container is properly lighted throughout the hours of darkness;

(b) that it will not remove the Container from the place where it is deposited without first obtaining both the written permission of the Highway Authority and the Supplier;

(c) that it will ensure that at the time when collection is requested there is a clear space at one end of the Container of not less than thirty feet to enable the lorry necessary access to effect the collection and removal.

15.3. The Buyer further warrants that:

(a) it accepts full liability for any damage to its own or a third party's property that occurs as a result of its attempt to or move any Container provided by the Supplier contrary to the terms of clause 15 (2) (b) and agrees to indemnify the Supplier against all costs incurred as a result of any claim brought against the Supplier by a third party for damage caused

as a result of the Buyer moving or attempting to move the Container;

(b) it or a responsible officer in its firm or company organisation has read or had explained to him and fully understands all the conditions subject to which the Highway Authority's permission has been granted;

(c) if it requests or orders vehicles delivering or collecting any Container to leave the highway it shall reimburse the Supplier in full in respect of any loss, costs, claims, damages or expenses the Supplier may thereby sustain whether it is a result of damage to the vehicle to a Container or to the property of the Buyer or third party including damage to the road margins and pavements, but so that the Supplier shall remain liable in respect of any negligence on the part of the Supplier or its employees.

16. Supplier's Warranties for Containers

16.1. The Supplier warrants with respect to each Container ordered to be placed other than on private property:

- (a) that the permission of the Highways Authority has been duly obtained under section 31 of the Highways Act 1980;
- (b) that the said permission will be kept in force by the extension or renewal as necessary until either the Container is removed or until the expiry of three working days after notice is given to the Supplier to remove the Container.

17. Right of Entry to Replace Containers

Without prejudice to any other rights, the Supplier, its agents or employees may enter on the Buyer's premises for the purpose of replacing (and later removing) a Container on the Buyer's property in order to return any material or waste for the removal of which payment is overdue and the Buyer shall have the same obligations in relation to the Container under these conditions for any period during which the Container remains on the Buyer's premises.

18. Limitation of Liability and Buyer's obligations

18.1. Nothing in these terms and conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) defective products under the Consumer Protection Act 1987.

18.2. Subject to clause 18.1:

- (a) the Supplier shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with these terms and conditions; and
- (b) the Supplier's total liability to the Buyer in respect of all other losses arising under or in connection with these terms and conditions, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the cost to the Buyer of replacing the Goods or Services provided that the Supplier is afforded a reasonable opportunity of replacing the Goods or Services.

18.3. Except as set out in these terms and conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these terms and conditions.

18.4. Notwithstanding 10.4 and save as otherwise agreed any property of the Buyer and all materials and property supplied to the Supplier by or on behalf of the Buyer will be held,

worked on and carried at the Buyer's risk and the Buyer agrees to indemnify the Supplier against all claims relating to the Services supplied to the Buyer in respect of any loss damage or expense sustained by any third party save only in respect of death or personal injury caused by the negligence of the Supplier or any of its employees or agents.

18.5. The Buyer shall indemnify (unless arising wholly or indirectly out of the negligence of the Supplier) from and against all costs, claims, demands, expenses and all liability whatsoever which may be made against the Supplier or which the Supplier may sustain, pay or incur arising out of the use and transport of such property or materials supplied to the Supplier by or on behalf of the Buyer.

18.6. This clause 18 shall survive termination of the Contract.

19. Force Majeure

The Supplier shall bear no liability for loss, damage or delay howsoever arising caused in circumstances outside its control including (but not limited to) Acts of God, war, strike, civil commotion, riot, malicious damage, work to rule or go slow, over time bans, lock-outs, fire, flood, compliance with any law or government order, rule, regulation or direction, accident, breakdown of plant or machinery, drought or inability to procure materials or articles except at increased prices due to any of the foregoing causes (and in these circumstances may suspend or cancel the whole or part of any delivery). The Supplier shall endeavour to notify the Buyer as quickly as reasonably possible if a force majeure event occurs.

20. Default

20.1. Without prejudice to any other rights it may have and without prejudice to the provisions of clause 12.2 above, the Supplier may, by notice to the Buyer, terminate any contract between the Buyer and Supplier forthwith and/or immediately recover from the Buyer all sums due from the Buyer under any contract with the Supplier (notwithstanding any period of credit which may have been allowed) together with any accrued interest and other legitimate charges and any loss caused to the Supplier as a result of any termination if:

- (a) any payment due by the Buyer to the Supplier is overdue in whole or in part; or
- (b) the Buyer shall commit any breach of any of the terms of any contract with the Supplier provided that if the breach is remediable the Supplier has given to the Buyer notice of such breach which has not been remedied within seven days thereafter; or
- (c) a resolution is passed or a Court Order made resolving or ordering the Buyer to be placed into liquidation or ordering that an administrator be appointed over all or any of its assets; or
- (d) a receiver or administrative receiver is appointed over all or any of the assets of the Buyer; or
- (e) the Buyer (being an individual) has a petition in bankruptcy entered against him; or
- (f) the Buyer ceases to or threatens to cease to carry on trading

20.2. Where the Buyer is situated outside of the United Kingdom the Supplier shall be entitled to terminate the contract and/or recover all sums due pursuant to clause 20.1 if any event occurs which is analogous to the events described in 20.1(c) to 20.1(f) inclusive.

21. Personal Guarantee

Where the Buyer is a limited company, the person signing these terms and conditions on its behalf hereby unconditionally guarantees the payment by the Buyer of all sums of £200 or above due from it to the Supplier from time to time whether arising pursuant to an agreement arising under these terms and conditions or otherwise howsoever arising and agrees to fully and effectively indemnify the Supplier against all or any claims, damages, losses, costs or expenses (whether direct, indirect or consequential) which the Supplier may suffer or incur by reason of any default of the Buyer in making payment of any such sums as and when they fall

due for payment notwithstanding any time or indulgence granted by the Supplier to the Buyer or any neglect or forbearance on the part of the Supplier in enforcing payment of such sums by the Buyer.

22. Arbitration

If at any time any question, dispute or difference whatsoever shall arise between the Supplier and the Buyer in relating to or in connection with the contract, either of them shall give to the other notice in writing that it requires such question, dispute or difference to be referred to the arbitration of a person to be agreed upon or failing agreement within 14 days after the date of such notice of some person to be appointed on the application of either party by the President for the time being of the Law Society pursuant to the Arbitration Act 1996.

23. Waiver

No waiver by the Supplier of any breach of contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision of the contract.

24. Invalidity of Contractual Term

The parties agree to be bound by these conditions which they consider to be reasonable. If any clause of these conditions is held by any Court or competent authority as invalid or unenforceable in whole or in part the validity of the remainder of these conditions and of the remainder of the provisions in question shall not be affected thereby.

25. Variation

The Supplier may vary these terms and conditions at any time, such variations will become effective immediately upon posting the varied terms and conditions on the website of the Supplier. If the Supplier changes these terms and conditions to the Buyer's significant disadvantage (in the Supplier's reasonable opinion) the Supplier will give the Buyer 30 working days' notice before the changes take place. By continuing to use the Supplier for Goods and Services following any such variation, the Buyer will be deemed to accept such variation.

26. Assignment

The Buyer shall not assign or transfer any contract to which these conditions apply nor the benefit thereof to any person whatsoever.

27. Lien

Without prejudice to any other remedies the Supplier shall in the event of default by the Buyer or any of the situations set out in clause 19 arising have a general lien on all goods and property in its possession (whether worked on or not) and belonging to the Buyer in respect of any sums due from the Buyer and shall be entitled after giving 14 days' written notice to the Buyer to dispose of such goods or property as it thinks fit.

28. Proper Law and Jurisdiction of the Contract

28.1. The construction, validity and performance of any contract shall be governed in all respects by the law of England and the Buyer shall at all times provide the Supplier with an address in England or Wales where it will accept service of proceedings.

28.2. The English courts shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this agreement. The parties submit to the jurisdiction.

29. Notices

Any notice required to be given under these conditions may be sent by pre-paid first class post, telex or facsimile to the principal place of business or registered office of the party to whom the notice is being sent. If sent by post, it shall be deemed to have been served (until the contrary is proved) on the second working day after the date of posting.

ENVIRONMENTAL PROTECTION ACT 1990 NOTICE

Duty of care etc as respects waste

34 Duty of care etc as respects waste

(1) Subject to subsection (2) below, it shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, [as a dealer or broker], has control of such waste, to take all such measures applicable to

him in that capacity as are reasonable in the circumstances--

(a) to prevent any contravention by any other person of section 33 above;

[(aa) to prevent any contravention by any other person of regulation 9 of the Pollution Prevention and Control (England and Wales) Regulations 2000 or of a condition of a permit granted under regulation 10 of those Regulations;]

[(aa) to prevent any contravention by any other person of regulation 12 of the 2007 Regulations [the Environmental

Permitting Regulations] or of a condition of an environmental permit;]

(b) to prevent the escape of the waste from his control or that of any other person; *and*

[(ba) on the transfer of any waste oil, to ensure that this is separately collected where technically feasible; and]

(c) on the transfer of the waste, to secure--

(i) that the transfer is only to an authorised person or to a person for authorised transport purposes; and

(ii) that there is transferred such a written description of the waste as will enable other persons to avoid a contravention of that section *[or any condition of a permit granted under regulation 10 of those Regulations]* *[or regulation 12 of the 2007 Regulations [the Environmental Permitting Regulations], or a contravention of a condition of an environmental permit,]* and to comply with the duty under this subsection as respects the escape of waste.

[(1A) It shall be the duty of any person who is responsible for the management of extractive waste to take all such measures applicable to him in that capacity as are reasonable in the circumstances--

(a) to prevent any contravention by any other person of section 33 above;

(b) to prevent any contravention by another person of regulation 12 of the 2007 Regulations [the Environmental Permitting Regulations] or of a condition of an environmental permit; and

(c) to prevent the escape of the waste from his control or that of any other person.]

(2) The duty imposed by subsection (1) above does not apply to an occupier of domestic property as respects the household waste produced on the property.

[(2) An occupier of domestic property--

(a) shall, as respects the household waste produced on the property, take reasonable steps to secure that any transfer of waste is only to an authorised person or to a person for authorised transport purposes; and

(b) shall not otherwise be subject to the duty imposed by subsection (1) above.]

[(2A) It shall be the duty of the occupier of any domestic property in England [or Wales] to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes.]

[(2B) The duty in subsection (2A)

(a) may be departed from where this is justified having regard to the overall impacts of the generation and management of such waste; and

(b) does not apply to an occupier of domestic property as respects the household waste produced on the property.

(2C) The Scottish Ministers may give guidance on the discharge of the duty in subsection (2A), including the circumstances in which that duty may be departed from under subsection (2B)(a).

(2D) A person seeking to discharge the duty in subsection (2A) must, in doing so, have regard to any guidance given under subsection (2C).]

(3) The following are authorised persons for the *purpose of subsection (1)(c)* *[purposes of subsections (1)(c) and (2A)]* above--

(a) any authority which is a waste collection authority for the purposes of this Part;

(b) any person who is the holder of a waste management licence under section 35 below or of a disposal licence under section 5 of the Control of Pollution Act 1974;

[(b) any person who is the holder of an environmental permit in relation to a waste operation;]

[(ba) any person who is carrying on an exempt waste operation;]

(c) any person to whom section 33(1) above does not apply by virtue of regulations under subsection (3) of that section

[or by virtue of regulations under section 2 of the Pollution Prevention and Control Act 1999];

(d) any person registered as a carrier of controlled waste under section 2 of the Control of Pollution (Amendment) Act 1989;

(e) any person who is not required to be so registered by virtue of regulations under section 1(3) of that Act; and

(f) a waste disposal authority in Scotland.

[(3A) The Secretary of State may by regulations amend subsection (3) above so as to add, whether generally or in such circumstances as may be prescribed in the regulations, any person specified in the regulations, or any description of person so specified, to the persons who are authorised persons for the purposes of *subsection (1)(c)* [subsections (1)(c) and (2A)] above.]

(4) The following are authorised transport purposes for the purposes of *subsection (1)(c)* [subsections (1)(c) and (2A)] above--

(a) the transport of controlled waste within the same premises between different places in those premises;

(b) the transport to a place in Great Britain of controlled waste which has been brought from a country or territory outside Great Britain not having been landed in Great Britain until it arrives at that place; and

(c) the transport by air or sea of controlled waste from a place in Great Britain to a place outside Great Britain;

and "transport" has the same meaning in this subsection as in the Control of Pollution (Amendment) Act 1989.

[(4A) For the purposes of subsection (1)(c)(ii) above--

(a) a transfer of waste in stages shall be treated as taking place when the first stage of the transfer takes place, and

(b) a series of transfers between the same parties of waste of the same description shall be treated as a single transfer taking place when the first of the transfers in the series takes place.] [(4B) In this section--

"separately collected" means collected separately from other types of waste so as to facilitate a specific treatment;

"waste oil" means any mineral or synthetic lubrication or industrial oil which has become unfit for the use for which it was originally intended, such as used combustion engine oil and gearbox oil, lubricating oil, oil for turbines and hydraulic oil.]

(5) The Secretary of State may, by regulations, make provision imposing requirements on any person who is subject to the duty imposed by subsection (1) above as respects the making and retention of documents and the furnishing of documents or copies of documents.

(6) Any person who fails to comply with the duty imposed by subsection (1)[, (1A)] [or (2A)] above or with any requirement imposed under subsection (5) above shall be liable--

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(7) The Secretary of State shall, after consultation with such persons or bodies as appear to him representative of the interests concerned, prepare and issue a code of practice for the purpose of providing to persons practical guidance on how to discharge the duty imposed on them by subsection (1) above.

(8) The Secretary of State may from time to time revise a code of practice issued under subsection (7) above by revoking, amending or adding to the provisions of the code.

(9) [A] code of practice prepared in pursuance of subsection (7) above shall be laid[(a)] before both Houses of Parliament [; or

(b) if it relates only to Scotland before the Scottish Parliament].

(10) A code of practice issued under subsection (7) above shall be admissible in evidence and if any provision of such a code appears to the court to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(11) Different codes of practice may be prepared and issued under subsection (7) above for different areas.

The Buyer confirms that it has read and understood all of the above terms and conditions.
Signed by a duly authorised signatory for and on behalf of the Buyer:

(The person signing the drivers PDA or paperwork on behalf of the Buyer personally guarantees the liabilities of the Buyer to the Supplier pursuant to the provisions of clause 21 above)

Version Dated 18th December 2020