

General Terms and Conditions – Technical Services

(November 2024)

In this agreement, the following words shall have these meanings:

“Address” means your address specified on the front page of this agreement or in any Quotation or Order Summary and any other site added from time to time by agreement with us.

“Charges” means the rates and any other charges as detailed on the front page of this agreement or in any Quotation or Order Summary, or otherwise incurred in accordance with these terms and conditions.

“Contract Term” means the period during which the Services will be provided to you and/or Equipment hired by you, as set out in the Quotation or, where not set out in the Quotation,

“CPI” means the most recent figures published by Statistics New Zealand for the Labour Cost Index percentage change: Transport, Postal, and Warehousing All Salary and Wage Rates - All Sectors (SG5119) index, plus the Producers Price Index percentage change: Inputs for Industry Group II - Road Transport (SQNII1100) index, (or if an index is materially changed or discontinued, a reasonable equivalent).

“Disposal Costs” means the gate-rates charged by the relevant processing and/or disposal facility, fuel costs, and costs resulting from the amendment or introduction of any law or regulation (including any resource consents or conditions), affecting the collection or disposal of the Waste.

“Equipment” means any items of equipment we supply/lease to you for the Services.

“Hazardous Waste” means any item, substance or liquid that is explosive, hazardous, corrosive, toxic, illegal, dangerous, inflammable, suffocating or is in any other way damaging to property or dangerous to the health and safety of any person or which we are not permitted to transport and includes any material which we may advise you is Hazardous Waste from time to time.

“Quotation and/or Order Summary” can be used interchangeably and means a document or email in which we offer to provide Services to you and the detail of those Services and, for clarity, includes the details on the front page of this agreement.

“Services” means the services to be provided by us to you as detailed on the front page of this agreement or in any Quotation or Order Summary, as may be varied by mutual agreement from time to time.

“Taxes” means any government or council surcharge, tax, duty, charge (including road user charges), or levies (including national waste disposal levies), and the cost of the emissions trading scheme (including carbon credits).

“Waste” means any means any liquid waste, Hazardous Waste or other waste collected and/or disposed of by us for you.

“Waste Declaration” means the Waste Declaration form supplied by us to you.

“we” “us” and “our” means Waste Management NZ Limited.

“Workers” has the same meaning as described in the Health and Safety at Work Act 2015.

“you” and “your” means the customer named on the front of this agreement or in any Quotation or Order Summary and any purchaser of your business.

1. ACCEPTANCE/PREVAILING TERMS AND CONDITIONS

Unless agreed otherwise, each Quotation and these General Terms and Conditions becomes a binding contract between us and you in respect of those Services specified in the Quotation when you either sign or otherwise accept the Quotation or utilise the Services. No other terms or conditions will apply, unless we expressly agree otherwise in the Quotation or Order Summary.

2. SERVICES

(a) We will use our reasonable endeavours to provide each Service in accordance with these terms and conditions and the relevant Quotation. We will do so with the degree of skill and care reasonably expected of an independent contractor performing work of such nature.

(b) While the Services are to be performed during our business hours or AS otherwise specified in the Quotation, we may at any time exercise our

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discretion in determining the order and timing for performance of a Service and the means by which a Service is provided. We will act reasonably in doing so and keep you informed of any such changes.

(c) We will use all reasonable endeavours to be timely and to cause a minimal amount of interference to your operations in performing the Services. However, we will not be liable for any failure to perform the Services due to circumstances beyond our reasonable control. If we become aware of anything that may delay performance of a Service in any material respect, we will notify you. If the delay exceeds 20 working days beyond when we agree to provide the Services to you, you may cancel the agreement in accordance with clause 11.

3. TITLE AND OWNERSHIP OF WASTE

(a) Title to and responsibility for the Waste will remain with you until the Waste has been processed and is unrecognisable from its original form, or upon any earlier confirmation from us that the Waste has been tested and accepted by us.

(b) Despite the previous sub-clause, if the Services involve any Hazardous Waste, then:

(i) we will provide the Services in capacity as your agent, and the title to and responsibility for any Hazardous Waste remains with you at all times until sufficiently treated such that it is no longer Hazardous Waste, whereupon the materials resultant from the treatment may be disposed of at our discretion; and

(ii) if we have offered in a Quotation to treat or dispose of any Hazardous Waste on your behalf, and for any reason we become unable to procure such treatment or disposal, then we will notify you that the Hazardous Waste needs to be returned to you, you will accept the return of such Hazardous Waste, and the Charges will be varied to reflect only the work and disbursements we actually performed or incurred (as the case may be).

4. PAYMENT

(a) The Charges payable by you for the Services will be as specified in the relevant Quotation.

(b) Where we give a Quotation for Services:

(i) that Quotation will be valid for six weeks from the date of issue, or any shorter period specified by us; and

(ii) any Charges quoted will be exclusive of any Taxes (including goods and services tax) which will be payable by you.

(c) The Charges set out in a Quotation are limited to the Services and Contract Term specified in that Quotation. Where work is required to be performed by us in addition to that specified in the Quotation, or the Service is varied, or any Service is required to be performed outside of our business hours (**“emergency work”**), you agree to pay for all costs of such emergency work including any loss of shift costs. We will make all reasonable endeavours to let you know of the need for emergency work and associated charges prior to commencing the emergency work.

(d) You agree that during any Contract Term we may increase the Charges from those contained in the Quotation to pass on any new or increased costs from:

(i) inflation, as measured by the increase in the rate of CPI since the most recent of the date of the Quotation and the last time the Charges were increased by CPI, and we will advise you of the new Charges at least 28 days before the new or increased costs take effect; and

(ii) Taxes and Disposal Costs, and we will give you an explanation of the applicable new or increased Taxes and Disposal Costs at least 28 days before they take effect if we receive sufficient advanced notice to do so, otherwise we will give you notice within five working days of us receiving notice of such.

(e) If we seek to increase the Charges from those contained in the Quotation during a Contract Term for any other reason other than as detailed in 4(c) or 4(d), then we need your consent to do so. We will

give you not less than 28 days prior written notice under this clause explaining the proposed increase. If you do not consent to the proposed increase, then you may cancel the Quotation without penalty by giving us written notice at cancel@wm.nz prior to the date when the proposed increase comes into effect. You agree that if you make a payment to us after the date when the proposed increase comes into effect, that means you consent.

(f) You will pay the Charges without deduction by the 20th day of the month following the date of our invoice or as otherwise as detailed on the front page of this agreement or in the Order Summary if ordered through our website and/or digital platforms. If you do not pay our invoices when due and are unable to establish to our reasonable satisfaction that you have a legitimate dispute in respect of any invoice, along with our other rights under this agreement, we reserve the right to:

- (i) temporarily suspend your Services;
 - (ii) charge a reasonable late payment fee on all outstanding balances to cover our costs;
 - (iii) immediately collect any Equipment from your site/address;
- and/or
- (iv) require payment in advance.

During the period of any suspension, you will continue to pay that portion of the Charges applicable to the supply of Equipment if it has not been collected.

5. OUR EQUIPMENT

You will not give security over or deal with the Equipment in such a way as to detract from our ownership. You will clean it and promptly notify us of any damage to the Equipment. You will indemnify us against any direct damage, defacement to the Equipment and any loss, claim, injury we incur in relation to the Equipment while at the Address or resulting from your use. For clarity, you will not be responsible for any damage to the Equipment or any loss, claim or injury in relation to the Equipment caused by us or our agents in delivery of the Services. If we clean the Equipment (which we will do when we consider, acting reasonably, that it is required and you have failed to do so on request by us), you will pay our reasonable cleaning charges. Where we provide Equipment to you that requires electricity, you will provide the electricity required. You will train your operators and ensure they comply with applicable health and safety procedures and relevant law regarding the operation of the Equipment.

6. DELIVERY OF EQUIPMENT AND SCHEDULED COLLECTIONS/SERVICE DATES

- (a) We will schedule a delivery date for your Equipment. Any Contract Term will be deferred until your Equipment has been delivered.
- (b) If your Service includes scheduled collection or Service date(s), we will aim to empty the Equipment or complete the Service on the scheduled date or within three working days of that date, unless we notify you in advance by text or email of any changes. We'll endeavour to notify you of any changes at least 48 hours in advance. You will receive the number or frequency of collections specified on the front page of this agreement or in the Order Summary.
- (c) If your Service includes scheduled collections and we attempt to collect the Equipment and access is blocked or you refuse the collection for any reason, your monthly or annual Charge will still apply. However, if we are unable to collect the Equipment due to a service failure on our part, such as a truck breakdown, traffic accident, driver illness, or a booking error, we will reattempt collection within the next 48 hours. If we are unable to do so due to a service failure on our part, a credit will be applied to your account. If for whatever reason you think we may be unaware that we have missed a collection, please let us know as soon as possible.

7. YOUR OBLIGATIONS

- (a) You will complete a Waste Declaration before the commencement of any Services involving the collection and/or disposal of any liquid Waste or Hazardous Waste or if otherwise required by us. You will ensure that the Waste Declaration is completed in full and is accurate. You understand that the accurate completing of the Waste Declaration is a pivotal health and safety requirement.
- (b) If we discover that the Waste Declaration, or any other representation made by you with respect to the Waste is incorrect in any way then we may:
 - (i) refuse to accept the Waste;
 - (ii) charge you additional amounts related to the correct handling of the Waste and/or any fine or liability imposed on us due to the incorrect description of the Waste; and/or
 - (iii) refuse to complete the Services and return the Waste to you.
- (c) If you package the Waste for collection and the packaging of the Waste is not completed to Dangerous Goods Standard NZS5433:2012 then we may charge you for the additional costs of packaging the Waste correctly.
- (d) You will:
 - (i) comply with all laws relevant to use of a Service.
 - (ii) obtain all consents and permits necessary for us to carry out the Services at your Addresses.
- (e) You will provide reasonable assistance to us in the provision of the Services including without limitation:
 - (i) ensuring we are able to safely access the Address whenever reasonably required to perform a Service; and
 - (ii) if power or water is required in order to provide any Service, you will, at your cost, ensure that they are made available to us at the Address.
- (f) You warrant:
 - (i) that your Addresses are safe and that all health and safety obligations under the Health & Safety at Work Act 2015 and any regulations have been and will be complied with at all times; and
 - (ii) that when deciding whether to accept a Quotation for any Service you have not relied on any representation by us which has not been expressly stated in writing in the Quotation.
- (g) You will advise us of factors known to you and relevant to the provision of the Services, such as special handling requirements, the proximity of sensitive sites, etc. We will not be responsible for any loss or damage caused as a result of you failing to advise us of any factors specific to the Address which are relevant to the provision of the Services.
- (h) Where a Service involves us coming into contact with any Hazardous Waste, you must fully disclose to us all your knowledge of the nature, composition and properties of such Hazardous Waste and any risks involved in handling such Hazardous Waste.

8. CONTRACT TERM

Subject to clauses 11 and 12, if a Contract Term is specified in any Quotation, then this agreement is binding for not less than any Contract Term. You agree to receive our Services and/or hire our Equipment for the length of time detailed in the Contract Term. At any time prior to the end of your Contract Term, you can contact us to fix a further Contract Term and you agree that we can try to contact you for the same purpose. If no further Contract Term is agreed then we will continue to provide the Services after the expiry of the term, on a month-by-month basis, but any preferential pricing applicable for committing to a fixed Contract Term will not apply and our Charges will revert back to our full rates (as current at the relevant time). If no Contract Term is in place then this agreement may be cancelled on one month's written notice by either party.

9. OUR LIABILITY

We will pay for any damage we cause to your property, to the extent caused by us, provided that our maximum liability in any 12 month period for such damage will be limited to the greater of the Charges paid by you in the 12 months prior to the damage and the limit of any insurance monies we recover for the damage. However, except in circumstances of negligent conduct, we are not responsible for damage to any access ways or to pipes, cables or other fixtures beneath them caused by the weight of our vehicles. To the extent permitted by law, we are not liable for any indirect loss, expense, damage or injury such as loss of business or loss of profits sustained by you or any third party as a result of any action or inaction of ours or as a result of you being unable to use the Equipment.

10. YOUR LIABILITY

You indemnify us, to the extent permitted by law, against any direct losses or liabilities suffered by us in relation to any physical damage, prosecution, claim, or action under any applicable law or regulation or at common law, arising from your actions or omissions in relation to the Equipment or the Waste. You are not liable to us for any indirect loss, expense, damage or injury such as loss of business or loss of profits that we may suffer.

11. CANCELLING AGREEMENT - YOU

In addition to your rights to cancel this agreement under clauses 2(c) and 4(e), if we commit a material breach of this agreement, you may give us written notice at cancel@wm.nz specifying the nature of the breach. If the breach is not cured within 7 days from the date of the notice, you may then cancel the Quotation or this agreement immediately. You will pay us for Services part performed at the date of cancellation.

12. CANCELLING AGREEMENT – US

- (a) We may cancel this agreement before the end of the Contract Term with 14 days' notice if:
 - (i) you fail to pay the Charges when due and do not make payment during the notice period;
 - (ii) you submit a false Waste Declaration;
 - (iii) you damage any Equipment in a material way;
 - (iv) you endanger the health and safety of our Workers;
 - (v) you suffer an insolvency event; or
 - (vi) you otherwise fail to comply with any other provision in this agreement where such failure is not fixed within 14 days of notice of such failure being given by us to you.
- (b) If we cancel this agreement for any of the reasons outlined in this clause 12, then together with any other amounts owing by you under this agreement, we may:
 - (i) claim from you, as a reimbursement of our reasonable costs for administration and the redeployment of the staff and plant committed to you, the equivalent of 3 month's Charges if there is more than 3 months remaining on your Contract Term, or the equivalent of 1 month's Charges if there is less than 3 months' remaining on your Contract Term, (in either case "month's Charges" meaning the usual Charges for the Services in the month preceding cancellation, absent any discounts, preferential incentives, specials or rebates);
 - (ii) claim from you the difference between any preferential pricing you received for committing to a fixed Contract Term versus our usual pricing, for the Services provided up to cancellation; and/or
 - (iv) pass any debt you may owe us to a debt collection agency and charge you (or the debt collection agency may charge you) what it costs to recover such debt (which may include costs such as legal fees).

If we choose to claim for these amounts, we will provide you with a detailed breakdown of the amounts incurred by us and/or the debt collection agency (if applicable).

13. INTELLECTUAL PROPERTY AND DATA

Subject to clause 17, we own all intellectual property rights in the Services and data (other than your personal data as that term is described in the Privacy Act 2020) associated with the Services. You don't have any title, interest or intellectual property rights in them, or any part of them, and will not make any claim in respect of any such intellectual property. Any intellectual property rights arising from any improvement or change to any Services devised or made by anyone belongs to us. We grant you a non-exclusive, non-transferable licence to use our intellectual property rights to the extent needed to use our Services. Only data about the Services that is specified as part of the Service to you and Charged for will be provided to you.

14. CLAUSES SURVIVING CANCELLATION

Cancellation does not affect those clauses that are intended to survive cancellation, including clauses 3, 4, 5, 7, 8, 9, 10, 12(b), 13 and 8.

15. HEALTH & SAFETY

We will (if required) promptly comply with your reasonable requirements prior to entering your Address and ensure that our personnel are aware of and comply with all health and safety obligations under this agreement and the Health and Safety at Work Act 2015 (HSWA). Both you and we each agree to co-operate, consult and co-ordinate with each other, and with any other "PCBU" (as defined in HSWA) that has a duty under the HSWA in relation to any work to be performed under this agreement, to ensure each party can comply with its obligations under the HSWA. If, while we are at your premises, a Notifiable Event (as defined in the HSWA) occurs, or WorkSafe issues any notice or investigates our activity under this agreement, then we will cooperate with your reasonable requirements.

16. COMPLAINTS AND DISPUTES

Our collection team undergoes thorough screening and training, and our trucks are equipped with cameras and telemetry systems to monitor operations. Typically, we only require access to your bin area, not your entire property. If any personal information is captured by our cameras, this will be dealt with in accordance with our Privacy Policy.

We are committed to providing hassle-free service and uphold a zero-tolerance policy for any behaviour that may compromise the safety of our Workers or the public.

Please notify us within 48 hours if you have any concerns about our Service, we're here to help. Please contact us at wmnz.co.nz/contact.

17. SHARING OF INFORMATION

We will comply with the Privacy Act 2020. You authorise any third party to provide us with credit information about you, and for us to use such information for any lawful purpose connected with our business (further details are available in our Privacy Policy on our Website). You authorise us to disclose details of this agreement and of our dealings with you to third parties.

18. PPSA

In relation to registration of our ownership in the Equipment under the Personal Property Securities Act 1999 you waive the right to receive a verification statement in respect of any financing statement we may register.

19. CONSUMER GUARANTEES ACT AND FAIR TRADING ACT

The Consumer Guarantees Act 1993 will not apply to the Services you are using for business purposes. To the extent the Consumer Guarantees Act

1993 applies, nothing in this agreement limits your rights under that Act unless it would be fair and reasonable to do so.

Where you are acquiring the Services "in trade" for the purposes of the Fair Trading Act 1986, sections 9, 12A and 13 of the Fair Trading Act 1986 do not apply. The parties acknowledge that for the purposes of section 5D of the Fair Trading Act 1986:

(a) it is fair and reasonable that the parties are bound by this clause 19; and
(b) the parties are each in trade and the Services are being supplied and acquired in trade.

20. MODERN SLAVERY

Both you and we each agree to take all reasonable steps to avoid being involved with Modern Slavery, including being diligent in relation to our respective supply chains, and have appropriate policies and training to identify risks of Modern Slavery, ensure that reasonable investigations are undertaken, and the results acted on appropriately. In this clause "Modern Slavery" means conduct which would constitute an offence under any of sections 98, 98AA and 98D of the Crimes Act 1961, section 351 of the Immigration Act 2009.

21. INSURANCE

We will maintain for the Contract Term of this agreement, public liability insurance for an amount of no less than \$5,000,000.

22. HEADINGS

Headings are for reference only and are not part of the meaning of any clause.