

Houghtons Waste Paper Limited – Terms and Conditions for Security Destruction Services

1. Definitions

In these terms and conditions the following definitions shall apply:

Contaminated Material: means any materials other than those that the Contractor has agreed to collect pursuant to the Order, including (but not limited to) heavy metals, glass, matches, combustibles, liquids, flammable materials or any other material likely to cause damage to the Contractor's equipment.

Contract: means the contract for the provision of the Services by the Contractor to the Customer that comprises these terms and conditions and the Order.

Contractor and Data Processor: means Houghtons Waste Paper Limited.

Customer and Data Controller: means the company, entity or individual detailed in the Order.

Equipment: means such document storage consoles, bins, skips and boxes and other equipment that the Contractor may provide to the Customer from time to time as part of the Services as detailed within the Order.

Evaluation Period: means the period of 3 months commencing on the date of the Contract and expiring on the date exactly 3 months afterwards, as set out within the Order.

Order: means the quotation by the Contractor to provide the Services to the Customer, once accepted by the Contractor, in accordance with these terms and conditions.

Price: means the Price for the Services and the rental of the Equipment (where applicable) as set out in the Order.

Services: means the provision of data destruction and document shredding services and/or the provision of the Equipment, as more particularly described within the Order in consideration of the payment of the Price by the Customer in accordance with these terms and conditions.

Term: the duration of the term of the Contract as set out within clause 5 of these terms and conditions.

Waste Transfer Note: a waste transfer note that complies with section 34 of the Environmental Protection Act 1990.

Working Day: a normal working day (excluding weekends and public holidays in England)

2. Conditions of Business

2.1 Quotations by the Contractor unless otherwise stated in them shall be open for acceptance within 30 days of the date of the quotation. A quotation for Services given by the Contractor shall not constitute an offer, and the Contractor reserves its right to change the quotation after it has been issued.

2.2 No Contract shall come into existence until the Order (however given) is either accepted by the Contractor's written acceptance, or otherwise by the Contractor commencing with the provision of the Services to the Customer in accordance with the Order.

2.3 All Services and Equipment supplied by the Contractor are supplied subject to these conditions unless otherwise agreed by the Contractor and confirmed in writing upon acceptance of an Order from the Customer.

2.4 The Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all previous communications, representations and arrangements, written or oral. The Customer acknowledges that no reliance is placed on any representation made but not embodied in the Contract.

2.5 The printed terms and conditions of any purchase order or other correspondence and documents of the Customer issued in connection with this agreement will not apply unless expressly accepted in writing by the Contractor.

2.6 These conditions shall be incorporated into the Contract to the exclusion of any terms or conditions stipulated or referred to by the Customer, or which might otherwise be implied by trade, custom, practice or course of dealing.

2.7 Unless otherwise stated in writing, any additional Services or Equipment that the Contractor agrees to supply to the Customer during the Term shall be supplied on these terms and conditions and shall be deemed to form part of the original Order and Contract.

3. The Services

3.1 By entering into this Contract, the Customer engages The Contractor as the exclusive supplier of the Services throughout the duration of the Term in consideration of the payment, by the Contractor, of the Price in accordance with these terms and conditions.

3.2 The Customer warrants that it shall not, throughout the duration of the Term, engage any other business or person to carry out the Services other than the Contractor.

3.3 In providing the Services, the Contractor shall destroy all paper, data or goods supplied by the Customer and either:

- transport the same to the Contractor's premises and arrange for its destruction and/or recycling (where possible); or
- destroy the materials using a mobile shredding equipment within the Contractor's vehicles and arrange for its disposal or recycling (where possible) at the Contractor's premises; or
- where materials are delivered by the Customer to the Contractor's premises, premises and arrange for its destruction and/or recycling (where possible);

unless otherwise prevented from doing so by circumstances beyond its reasonable control.

3.4 The Contractor agrees to provide the Customer with the Equipment, upon written request, for the storage of material pending collection.

4. Evaluation Period

4.1 During the Evaluation Period, either party may give the other party not less than one weeks prior written notice to terminate the Contract, with such notice terminating on the date exactly 3 months after the date of the Contract.

4.2 If the Customer terminates the Contract in accordance with clause 4.1, all payments due from the Customer to the Contractor at the date of termination, must be paid in full for the notice to be valid.

5. Length of Term

5.1 Subject to clause 4.1, where the Contractor under the Contract provides ongoing Services to the Customer the Contract shall be for an initial period of 1 year from the date of the Contract and thereafter automatically renewable annually unless either party shall give to the other not less than 30 days prior written notice of termination expiring on any anniversary of the date of this Contract.

5.2 If notice of termination is not received as set out in clause 5.1, the Contract for ongoing Services shall be treated as renewed and the Customer shall continue to engage the Contractor as its exclusive supplier of the Services in accordance with these terms and conditions.

5.3 Without Prejudice to any other right or remedy it may have, either party may either terminate the Contract, or temporarily suspend the Services and remove the Equipment, at any time by notice in writing to the other if:

- the other party is in material breach of this Contract and has failed to remedy such breach within 30 days of receiving notice from the other party (in writing) to do so; or
- fails to pay any monies due to the other party within 14 days of the monies becoming due; or
- in the event of the insolvency of the other party.

5.4 Each party must notify the other, immediately upon becoming aware of an insolvency event happening, or being threatened in relation to that party.

6. Collection & Delivery

6.1 The Contractor shall use all reasonable endeavours to collect the waste materials from the Customer, with the frequency and at the agreed times and location as set out within the Order.

6.2 All Customers are required to provide specific written order instructions to the Contractor detailing all relevant information relating to the collection/delivery including any times during which access will be denied.

6.3 All collection dates given by the Contractor are estimated and the Contractor, its employees and agents shall be under no liability whatsoever for any delay in collection howsoever caused.

6.4 The Customer must give the Contractor not less than one Working Day's prior written notice to cancel an agreed collection time. Such notice must contain an alternative collection time (within 48 hours of the original collection date), which cannot be re-arranged or cancelled.

6.5 The Customer may request additional collection times, subject to giving the Contractor not less than 72 hours prior written notice. Such additional collections shall be charged at the Contractor's normal rates as set out within the Order.

6.6 The material shall remain at the Customer's risk until collected and released to the Contractor, with an approved collection receipt given, and signed for by the Customer.

6.7 The Customer shall allow the Contractor unrestricted access to the Equipment at the agreed times to allow the Contractor to provide the Services.

6.8 The Contractor shall only collect materials that are stored within the Equipment provided. Any loose materials or excess materials that may, from time to time, be collected by the Contractor shall be subject to additional charges and may result in the Contractor reviewing the quantity/size of the Equipment situated at the Customer's premises.

6.9. Where collection is by instalments each collection will be a separate contract and any failure or defect in any one collection shall not invalidate the Contract as to the remaining collection.

6.10 If:

(a) the Contractor cannot gain access to the Equipment; or

(b) the material is not available for collection at the agreed time;

then in either case the Contractor reserves the right to charge the Customer for the any loss incurred by the Contractor as a result of the Customer's failure to comply with this clause, including (but not limited to), petrol/diesel, drivers costs, administration costs and any other losses suffered by The Contractor as a consequence of the Customers breach.

7. Segregation and Legislation

7.1 The Services and Equipment are supplied for the collection of paper, data or goods for security destruction only. It is the Customer's responsibility to ensure that only the correct material is placed in the Equipment provided.

7.2 The material destined for security destruction must not contain any Contaminated Material. The Contractor shall take reasonable steps to remove any Contaminated Material that it finds during the destruction process. The Customer shall indemnify the Contractor for all damages, costs, claims, demands and loss suffered (whether directly or indirectly) whatsoever by the Contractor as a result of the Customer supplying Contaminated Materials to the Contractor, including (but not limited to) damage caused to the Contractor's machinery as a result of Contaminated Materials passing through the Contractor's equipment and causing damage, explosion or fire.

7.3 The Customer shall be liable for the cost of sorting and the shredding/recycling/disposal of any Contaminated Material at the rates set by the Contractor from time to time.

7.4 The Customer shall comply with all legislation and regulations applicable to the storage and disposal of waste that is appropriate for the Customer's business, including (but not limited to) the Environmental Protection Act 1990, and ensuring that the materials do not include any waste that requires notification under the Hazardous Waste (England and Wales) Regulations 2005 or the Special Waste Regulations 1980, or any subsequent modifications or amendments thereof.

7.5 The Contractor undertakes to dispose of the confidential/recyclable/waste material or transfer it to the holder of a waste disposal or waste management licence appropriate to the waste description and to supply the Customer with a Waste Transfer Note at all times.

8. Health & Safety

8.1 The Customer shall ensure that the Equipment is located, used and loaded properly and responsibly in accordance with the Health and Safety at Work Act 1974 and any other relevant statutory provisions.

8.2 The Customer has the responsibility under the Health and Safety at Work etc. Act 1974 to ensure, so far as is reasonably

practicable, the health, safety and welfare of their employees.

8.3 Where the supply of Equipment means that existing risk assessments are no longer valid, the Customer should review their risk assessment.

9. Payment

9.1 The Customer shall pay the Contractor for the Services within 30 days of the delivery of invoice (due date) or otherwise on the terms stated within the Order.

9.2 The Contractor shall invoice the Customer for the Price of the Services and the rental cost of the Equipment (together with any additional charges incurred by the Customer under the Contract) on a monthly basis or otherwise as set out within the Order.

9.3 Payments outstanding at their due date shall attract interest at 4% over the base lending rate of Barclays Bank Plc for the time being in force from the due date until the date of payment.

9.4 It is acknowledged by the Customer that the Contractor may adjust the Prices from time to time to cover any legislative, fuel, disposal cost increases or any other cost variables outside of the Contractor's control or any additional costs incurred as a result of the Customer amending its instructions to the Contractor. Any alteration to the Prices will be notified in writing to the Customer as soon as is reasonably practical and will be deemed accepted by the Customer immediately upon the next collection of material by the Contractor following such notification.

9.5 The Contractor may withhold the certificate of destruction for the materials until payment has been made by the Customer for the Services to which the Waste Transfer Note relates.

10. Additional Charges and Suspension of Services

10.1 The Contractor reserves the right to charge the Customer, on a full indemnity basis, for all costs incurred by the Contractor for:

- sorting, shredding, recycling or disposing of Contaminated Materials in accordance with clause 7.3; or
- the collection of any excess or loose materials in accordance with clause 6.8; or
- the provision of any additional Equipment that is not set out within the Order; or
- expedited or additional collections/visits; or
- any monies charged to the Customer in accordance with clause 6.10 or any other loss incurred as a result of the Customer's failure to make the waste materials available for collection at the agreed time, and in the manner provided for, pursuant to clause 6;

and such additional charges shall be invoiced to the Customer on the Contractor's usual terms in accordance with clause 9.

10.2 The Customer shall fully indemnify the Contractor for all damages, costs, claims, demands and loss suffered (whether directly or indirectly) whatsoever by the Contractor as a result of the Customer's breach of the Contract.

11. Use, Storage and Insurance of the Equipment

11.1 Any Equipment supplied by the Contractor shall at all times remain the property of the Contractor. The Customer shall be responsible for its maintenance, cleaning, safe keeping and for any damage while under its care and shall not permit its use or movement by any third party without the written consent of the Contractor.

11.2 The Equipment must be returned to the Contractor at the end of the Term in the same condition as when provided at the start of the agreement reasonable wear and tear excepted.

11.3 The Customer shall ensure that the Equipment is not overloaded or filled with unsuitable waste, such as building rubble, soil, concrete and similar waste.

11.4 The Customer accepts full responsibility for the location, care and the use of the Equipment and the material while at the Customer's premises and shall ensure that its public, employers and fire insurances cover any risks associated with the Equipment in accordance with this acceptance of responsibility and shall also include the Equipment on their insurance schedule at its present replacement value. The Customer accepts full liability for the loss of or damage to the Equipment, from whatever cause, while the Equipment is on rental/loan and will compensate the Contractor for the cost of replacement or refurbishment thereof. The Contractor can ask the Customer to view its certificate of Insurance at any time.

12. Security Shredding Standards

The Contractor will use its reasonable endeavours to comply with the Security Shredding Standards laid down by the United Kingdom Security Shredding Association (UKSSA), and where applicable Principle 7 of the Data Protection Act 1998 when carrying out collections, destruction, recycling or disposal of material supplied by the Customer.

13. DATA PROTECTION ACT 1998 Principle 7 Agreement

13.1 Personal data collected by, delivered to or coming into possession of the Data Processor from the Data Controller shall only be handled for the purpose of carrying out the terms of the Contract and shall not be released to a third party without the consent in writing of the Data Controller and/or the data subject (where appropriate) and in compliance with Principles 1-8 and section 7, 8 & 9 of the Data Protection Act 1998.

13.2 Where processing of any personal data is carried out by the Data Processor on behalf of the Data Controller, the Data Processor will take appropriate technical, organisational and security measures governing the processing to be carried out, and will take reasonable steps to ensure compliance with those measures.

13.3 Having regard to the state of technological development and the cost of implementing any measures, the Data Controller agrees that the measures taken by the Data Processor ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage as are mentioned in the seventh principle, and the nature of the data to be protected.

13.4 The Data Processor has also taken reasonable steps to ensure the reliability of any of its employees who have access to the Data Controller's personal data.

13.5 The Data Processor will endeavour to comply with any reasonable requests by the Data Controller to inspect the Data Processor's destruction of Personal Data.

13.6 The onus is on the Data Controller to ensure that the data is suitable for security shredding/destruction, the Data Controller warranting that it has complied with all of its obligations pursuant to the Data Protection Act 1998.

14. Liability

14.1 Subject to clause 14.3:

- The Contractor shall have no liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss or damage of any nature arising under or in connection with any breach of any express or implied warranty or condition of the Contract or in any other way out of or in connection with the performance or purported performance of or failure to perform the Contract; and
- The Contractor's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, the invoiced price of the Goods and/or Services to which the claim relates

14.2 Without prejudice to the clause above, the Contractor shall not in any event be liable for any claim unless notified in writing within 7 days of the collection of material or the event giving rise to a claim.

14.3 Nothing in this Contract shall limit or exclude the Contractor's liability for:

- for death or personal injury resulting from the Contractor's negligence; or
- for fraud or fraudulent misrepresentation.

15. Force Majeure

The Contractor shall be excused from any liability if the performance in whole or in part of the Contract is prevented or hindered by cause beyond its control including without limitation by Act of God, War, Terrorism or acts of central or local Government or other competent authority, fire, accident, strike, trade dispute or lockout etc.

16. General

16.1 The Customer shall ensure that any person giving written instructions on behalf of the Customer pursuant to these terms and conditions is duly authorised to enter into contracts on the Customer's behalf, and the Contractor is entitled to assume that any person giving written instructions on behalf of the Customer is so authorised, without the need to carry out further enquiry.

16.2 The Customer may not transfer, assign or otherwise part with the whole or any part of its rights and obligations under any Contract without the Contractor's prior written consent. The Contractor may transfer, assign or otherwise part with the whole or any part of its rights and obligations under any Agreement at any time.

16.3 Neither party's failure to enforce or rely on or delay in enforcing or relying on any right will prevent that party from later enforcing or relying upon that or any other right.

16.4 If a court or other regulatory body finds that any part of this Agreement is invalid or unenforceable, the remainder of the Contract shall not be affected and shall be construed as if such invalid or unenforceable part did not exist.

16.5 Nothing in any Contract shall confer any rights upon any person who is not a party to it, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

16.6 Each Contract shall be governed by and construed in accordance with the law of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales