



Terms and Conditions

1. Interpretation

- 1.1 In these terms and conditions ("Conditions") the following words have the following meanings.
- 1.1.2 "Collection Service" a Service whereby M&WR Ltd collects Waste from the Premises and transports it to the Site for treatment and/or disposal;
- 1.1.3 "Contract" the contract between M&WR Ltd and the Customer for the supply of the Service or Goods whether written or verbal;
- 1.1.4 "Customer" the Customer or supplier named in the Quotation;
- 1.1.5 "Customer Vehicles" any vehicles operated by or on behalf of the Customer (other than Vehicles);
- 1.1.6 "Delivery Service" a Service whereby the Customer transports the Waste to the Site for disposal;
- 1.1.7 "Environment Agency" the Environment Agency, the Scottish Environment Protection Agency or the Environment Heritage Service for Northern Ireland or successor body from time to time;
- 1.1.8 "Environmental Laws" all directives, statutes, ordinances, byelaws, regulations and codes of practice for the protection of the environment or the regulation or control of environmental hazards or pollution having the force of law in the United Kingdom;
- 1.1.9 "Equipment" any equipment provided by M&WR Ltd in connection with the Service;
- 1.1.10 "Goods" any goods or materials received or supplied to or by M&WR Ltd under any contract.
- 1.1.11 "Hazardous Waste" any waste with one or more hazardous properties that are hazardous to health or the environment as defined under Environment Laws or as determined by the Secretary of State from time to time;
- 1.1.12 "M&WR Ltd" the company Metal & Waste Recycling Ltd or any subsidiary to include without limitation Foreman Recycling Ltd
- 1.1.13 "Premises" the Customer premises named in the Quotation;
- 1.1.14 "Quotation" M&WR Ltd Quotation to the Customer;
- 1.1.15 "Service" the goods or services supplied, the Collection Service or the Delivery Service specified in the Quotation and "goods" "service", "serviced" and Servicing are to be construed accordingly;
- 1.1.16 "Site" the place of deposit, treatment or disposal named in the Quotation or as advised at a later date;
- 1.1.17 "Vehicles" are vehicles operated by or on behalf of M&WR Ltd (other than Customer Vehicles);
- 1.1.18 "Waste" the wastes including as the case may be, Hazardous Waste as specified in the Waste Specifications;
- 1.1.19 "Waste Specification" the waste as described in the Quotation.
- 1.2. The clause headings are for convenience only and do not affect the construction of the Conditions.
- 1.3 Any reference to a statutory provision includes a reference to any modification consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, regulations
- 1.4 Reference to a party means either or both M&WR Ltd and the Customer and a party's "personnel" are to that party's employees, agents and contractors.
- 1.5 Any notice or notification required by these Conditions must be in writing.

2. Application of Conditions

- 2.1 Conditions together with the Quotation constitute the Contract to the exclusion so far as is permitted by law) of all other terms and conditions (express or implied), including (without limitation) any conflicting terms of purchase or order which the Customer may seek to impose, and supersedes all agreements, arrangements and representations made at any time unless agreed in writing between the parties, subsequent to the issuing of the Quotation.
- 2.1 Contract is governed and construed in accordance with the laws of England and Wales. The parties hereby irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

3. M&WR Ltd Obligations

- 3.1 M&WR Ltd agrees:
- 3.1.1 To Service the Wastes/Goods in a proper and efficient manner in accordance with the Contract
- 3.1.2 Where the Service provided by M&WR is the sale of goods to supply goods in accordance with the description or specification provided by M&WR
- 3.1.3 In the performance of the Collection Service, to comply with all the site safety regulations at the Premises notified to, and acknowledged by M&WR Ltd, prior to the date of the Contract.
- 3.1.4 To comply in the performance of the Service with all Environmental Laws except insofar as these are the Customer's responsibility under the Contract.
- 3.2 All implied terms, conditions and warranties relating to the Service or the quality or manner of its performance are excluded.

4 Customer's warranties

- 4.1 The Customer warrants that:
- 4.1.1 In respect of Hazardous Waste it has notified the Environment Agency that it produces or removes Hazardous Waste from the Premises.
- 4.1.2 In respect of Hazardous Waste the Customer has the relevant registration or premises code from the Environment Agency and that code represents Waste being produced and removed from the Premises and it has provided a copy to M&WR Ltd in request'
- 4.1.3 It is the owner of the Waste and free to transfer it to M&WR Ltd for servicing in accordance with the Contract;
- 4.1.4 The Waste is accurately described in the Waste Specification and the correct EWC Waste Codes and will at all times correspond with that description;

- 4.1.5 The constituents of the Waste are compatible and stable and all Hazardous Waste is stored separately at the Premises and is not mixed and no hazard will arise from the mixing of the Waste with other Wastes;
- 4.1.6 The Customer has a consignment note for each Waste which will be available at each collection or delivery;
- 4.1.7 M&WR Ltd personnel are authorised to enter the Premises with Vehicles and Equipment for the purpose of dismantling, recovering, packaging, loading and removing the Waste and Equipment; provided that where M&WR Ltd has agreed to provide the Chempac Service to the Customer the warranties contained in clauses 4.1.4 and 4.1.5 are only given if and to the extent that responsibility for the subject matter thereof is not assumed by M&WR Ltd as part of the Service to be provided.
- 4.1.8 The warranties contained in clause 4.1 are fundamental and absolute terms and they shall not be qualified or impaired (except as provided therein) nor shall any right or remedy in relation thereto be waived or prejudiced by any inspection by M&WR Ltd or the inspection of the Equipment or the Waste or by any sample and subsequent analyses of any Waste by or on behalf of M&WR Ltd.

5. Waste Specification

- 5.1 The Customer is to permit M&WR Ltd personnel free and immediate access to the Premises from time to time upon request for the purpose of inspecting and sampling the Waste.
- 5.2 The Customer is to supply to M&WR Ltd such evidence of the Waste as it may require to satisfy itself that the description of the Waste is identical to the waste Specification or to enable it to comply with Environmental Laws and compliant EWC Waste Codes.
- 5.3 The parties must notify each other immediately with full details if the Waste serviced or to be serviced does not conform to the Waste Specification.
- 5.4 If at any time the Waste does not conform with the Waste Specification, M&WR Ltd may without incurring any liability suspend the Service (wholly or in part) and refuse to accept or collect the Waste or any part of it until such time as the Waste conforms with the code referred to in clause 4.1.2 above and the Waste Specification;
- 5.5 If the Customer proposes any change in:-
 - 5.5.1 The specification of the Waste to be serviced; or
 - 5.5.2 Production techniques schedules or other aspects of its business;
 In consequence of which the Waste to be serviced will or may not conform with the code or Waste Specification, the Customer is to notify M&WR Ltd immediately of such change with sufficient details thereof to enable M&WR Ltd to decide whether or not such Waste is capable of being serviced under the Contract. M&WR Ltd may suspend the Service without incurring any liability whilst the following provisions of this clause apply.
- 5.6 Before resumption of the Service, the parties are to agree in writing a revised Waste Specification for the Waste to be serviced, revised charges and any other necessary amendments to the Contract whereupon the revised Waste Specification shall become the Waste Specification.
- 5.7 IF:-
 - 5.7.1 M&WR Ltd is not satisfied that the Service continue on the current terms: and/or
 - 5.7.2 The parties cannot agree revised terms within 10 days of the suspension of the Service;
 M&WR Ltd may terminate the Contract by notice without prejudice to any right or remedy of either party for any antecedent breach of the Contract.
- 5.8 Suspension of the Service pursuant to clauses 5.4 or 5/5 is without prejudice to M&WR Ltd right to payment of any Equipment rental or additional charges specified in the Contract until the Service is resumed or the recover any other loss or expense incurred by M&WR Ltd subsequent upon the suspension of the Service

6 Delivery service

- 6.1 If:-
 - 6.1.1 The Customer fails to provide to M&WR Ltd all the information required by or is otherwise in breach of Environmental Laws;
 - 6.1.2 The Customer fails to inform any operator of a Customer Vehicle entering the Site of:-
 - 6.1.2.1 The nature of the Waste and the risks of harm to persons or property associated with it;
 - 6.1.2.2 The operational safe working procedures applicable to the Site; or
 - 6.1.2.3 The Site licence conditions from time to time affecting the Site;
 - 6.1.3 Any of the Customer's personnel fail to comply with the operational safe working procedures of Site licence conditions affecting the Site from time to time and/or to comply with the directions of M&WR Ltd management or supervisors;
 - 6.1.4 Any Customer Vehicle contains Waste which is or appears to M&WR Ltd to be dangerous;
 - 6.1.5 Any Customer vehicle arrives at the Site other than during the hours and on the days when the Site is open; or
 - 6.1.6 The Customer is in breach of any of its warranties or other obligations under the Contract;
 Then the provisions of clause 6.2 shall apply.
- 6.2 In any of the circumstances set out in clause 6.1 M&WR Ltd may (without prejudice to any right or remedy):-
 - 6.2.1 Refuse any Customer Vehicle entry to Site; 6.2.2 expel any Customer Vehicle from Site;
 - 6.2.2 Quarantine any Customer Vehicle on Site pending instructions from the emergency or waste regulatory authorities;
 - 6.2.3 Refuse to accept Waste from any Customer Vehicle.
- 6.3 The Customer must satisfy itself that the Site is suitable for the disposal of the Waste by Customer Vehicles. M&WR Ltd is not liable for any loss to the Customer from:-
 - 6.3.1 Any damage occasioned to the Customer Vehicle by reason of the state and condition of the Site or any road upon it;
 - 6.3.2 Any delay incurred in offloading or discharging Waste on Site.

7 Collection Service

- 7.1 The Customer is responsible for:
- 7.1.1 Providing a suitable and safe vehicular access to the collection point on the Premises;
- 7.1.2 Giving adequate notice to M&WR Ltd personnel of site regulations and safe working procedures insofar as they relate to the provision of the Service;
- 7.1.3 Supervising the collection and loading of Waste with Equipment except where this is M&WR Ltd responsibility under the Contract;
- 7.1.4 The health and safety of all M&WR Ltd personnel on Site;
- 7.1.5 The sitting and use of the Equipment.
- 7.2 M&WR Ltd may refuse to provide the Collection Service if it reasonably considers that the work required might place at risk any person, vehicle, or property and such refusal will not be deemed to be a breach or default of M&WR Ltd under the Contract.
- 7.3 If the Customer proposes to change the collection point then:-
- 7.3.1 The Customer is to notify M&WR Ltd forthwith providing full details of the proposed collection point;
- 7.3.2 M&WR Ltd may re-negotiate its charges and the other terms of the Contract providing the Collection Service;
- 7.3.3 No change is to occur until the parties have agreed the proposed collection point revised charges and any other necessary amendments to the Contract which shall thereafter be construed accordingly.
- 7.4 Unless otherwise specifically agreed in writing all dates and times for collection of the Waste quoted by M&WR Ltd are estimates only and M&WR Ltd shall not be liable to the Customer for any delay in the provision of the Collection Service.

8 Equipment

- 8.1 Any Equipment supplied by M&WR Ltd shall remain M&WR Ltd property and the Customer is not to sublet or otherwise part with possession of such Equipment.
- 8.2 M&WR Ltd may at its discretion at any time replace any Equipment supplied with other Equipment.
- 8.3 The Customer is:-
- 8.3.1 Not to paint or mark the Equipment nor to deface or remove any marking upon the Equipment;
- 8.3.2 Not to overload, improperly load or otherwise misuse the Equipment nor place any wastes other than the Waste therein and there will be no inappropriate mixing or dilution;
- 8.3.3 Not to burn anything in the Equipment;
- 8.3.4 To secure the Equipment and any Waste therein against damage, theft, vandalism or scavenging.
- 8.4 The Equipment shall not be sited on a highway (public or private) or in any public place. Subject to this is the Customer is to be responsible for the siting of the Equipment.
- 8.5 The Customer is to be responsible for and to indemnify M&WR Ltd against any loss or damage to the Equipment (other than ordinary wear and tear) and for the cost of repairs and expenses resulting from the Customer's failure to take reasonable care of the same.

9 Packaged Wastes

Except where M&WR Ltd is to package and label the Waste, the Customer warrants and undertakes to ensure that all drums, other sealed containers and packages are sound, suitable for the Waste and labelled in accordance with Environmental Laws, including (without limitation) an accurate description of the Waste within them and (where appropriate) a warning of hazard presented by their contents. The Customer is to ensure that no other marking is made on or allowed to remain upon any such drum, container or package.

10 Title to Waste

- 10.1 Title to Waste and responsibility for its disposal passes to M&WR Ltd:-
- 10.1.1 as to Collection Service at the time that the Waste is conveyed off the Premises in the Vehicle;
- 10.1.2 as to Delivery Service at the time that the Waste is deposited upon the Site by the Customer.
- 10.2 Title to any property (including personal effects) deposited by the Customer or any third party in the Waste shall pass to M&WR Ltd. M&WR Ltd is not bound to return any such property nor is it liable for its loss and damage. The Customer indemnifies to M&WR Ltd against all costs, claims, demands and liabilities in respect of any such property deposited in the Waste.
- 10.3 Title to any waste or goods in respect of which a sale has been made by M&WR Ltd shall notwithstanding delivery remain vested in M&WR Ltd until payment has been received in full by M&WR Ltd.

11 Liability for breach

- 11.1 The Customer indemnifies M&WR Ltd, its association or subsidiary companies and personnel against:-
- 11.1.1 All proceedings and claims for any loss (including economic loss), damage, personal injury, illness, impairment of health or loss of life; and
- 11.1.2 All costs, expenses and losses (including economic loss); arising from any breach of the Customer's obligations under this Contract (except to the extent that these were caused by the negligence of M&WR Ltd or M&WR Ltd personnel).
- 11.2 Except in respect of death or personal injury caused by M&WR Ltd negligence, M&WR Ltd is not liable to the consequential loss, special loss, indirect loss or compensation whatsoever caused by M&WR Ltd or its personnel arising from or in connection with the Service.
- 11.3 (Without prejudice to clause 11.2) the liability of M&WR Ltd for any breach of its obligations under this Contract shall not exceed the amount of the charges receivable by M&WR Ltd for providing the Service under this Contract.

12 Payment terms

- 12.1 The Customer must pay M&WR Ltd charges or other sums invoiced together with value added tax thereon in full within 30 days of the date of M&WR Ltd invoice. Time for payment is of the essence.
- 12.2 If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy M&WR Ltd may:-
- 12.2.1 Charge interest on unpaid invoiced at the rate of 3% above the base rate of Bank of Scotland in force at the due date to the date of payment (both before or after judgement); and/or
- 12.2.2 Suspend to the provision of the Service until all overdue invoices have been paid in full.
- 12.3 Without prejudice to any of its other rights and remedies, M&WR shall be entitled to set off all or any of its liabilities to the Customer against all or any of the Customer's liabilities to M&WR under any transaction or series of transactions. The Customer may not withhold payment of any invoice or other amount due to Metal & Waste by reason of any right of set off or counterclaim which the Customer may have or allege to have or for any reason whatever.

13 Termination

- 13.1 If:-
- 13.1.1 The Customer commits a breach of the terms of the Contract; or
- 13.1.2 The Customer permits a supervisor, receiver, administrator, administrative receiver or other encumbrancer to take possession of or be appointed over the whole or any part of the assets of the Customer; or
- 13.1.3 The Customer suffers any distress, execution or other process being levied or enforced upon the whole or any part of the Customer's assets and does not discharge the same within 7 days; or
- 13.1.4 The Customer ceases or threatens to cease to carry on business; or
- 13.1.5 The Customer is unable to pay its debt within the meaning of Section 123 of the Insolvency Act 1986; or
- 13.1.6 Any capacity or regulatory limit at the Site or elsewhere has been or is about to be exceeded;
- 13.1.7 An event occurs which is in the opinion of M&WR Ltd so prejudicial to the interests of M&WR Ltd as to justify termination of this Contract; M&WR Ltd may at any time thereafter determine this Contract immediately by notice to the Customer.
- 13.2 Without prejudice to the provisions of clause 13.1 M&WR Ltd may at any time terminate this Contract on giving one month's notice to the Customer.
- 13.3 The rights of termination contained in this clause 13 are without prejudice to the accrued rights of the parties at the date of termination which shall survive termination. Upon termination M&WR Ltd may remove the Equipment and enter upon the Premises or other land on which the Equipment is sited for such purpose.

14 Statutory obligations

Nothing contained in this Contract affects the Customer's obligations under any relevant legislation including (without limitation) the Customer's responsibility:-

- 14.1 Under Section 34 of the Environmental Protection Act 1990 and any code of practice thereunder; or
- 14.2 To obtain any licence or other authorisation in respect of the dealing with or storing of the Waste whilst ownership or possession of the Waste remains with the Customer; or
- 14.3 To comply with the provisions of The Environmental Protection (Special Wastes) Regulations 1996 including the notification procedures set out therein.
- 14.4 To comply with the provisions of the Health and Safety, the Carriage of Dangerous Goods by Road Regulations (1996).
- 14.5 To comply with the Hazardous Waste (England and Wales) Regulations 2005 and the List of Wastes (England) Regulations 2005.

15 Force Majeur

M&WR Ltd shall not be liable to the Customer or be deemed in breach of the Contract by reason of any delay in performing or any failure to perform any of M&WR Ltd obligations in relation to the Service, if the delay or failure was due to any cause beyond M&WR Ltd reasonable control including, but not limited to, an act of God, a strike or labour disruption or unrest (whether involving employees of M&WR Ltd or a third party), difficulties in obtaining labour or fuel of the failure or breakdown of equipment, and any legislative, executive or judicial act including without limitation an order, direction or request.

16 Assignability

Neither the Customer nor M&WR Ltd shall sublet or assign the benefit of this Contract except that (without in any way altering the rights or obligations of the parties) M&WR Ltd may assign the benefit of the Contract to an associated or subsidiary company and may employ such of its independent contractors or agents as it thinks fit to perform all or any part of its duties hereunder.

17 General

- 17.1 The Customer shall not make any disclosure to the press, television or radio or any other media of communication relating to the nature of the Waste or any other particulars of the subject matter of this Contract without the prior written consent of M&WR Ltd.
- 17.2 Neither M&WR Ltd nor its personnel are authorised to make any recommendation given by M&WR Ltd or its personnel to the Customer or its personnel as to the Service or any associated matters unless such representation, recommendation or advice is confirmed by an authorised officer of M&WR Ltd.
- 17.3 No failure by M&WR Ltd to enforce any provision of this Contract shall be construed as a release of its rights relation thereto or to sanction any further breach.
- 17.4 If any provision of this Contract is found to be invalid or unenforceable it shall have effect to the maximum extent permitted by law, or if not so permitted, shall be deleted.

- 17.5 Notices shall be in writing and should be sent to the other party marked for the attention of the person at the address set out for such party in the Contract. Notices may be sent by first class mail or facsimile transmission provided that facsimile transmissions are confirmed within 24 hours by first class mailed confirmation of copy. Correctly addressed notices sent by first class mail shall be deemed to have been delivered 72 hours after posting and correctly directed facsimile transmission shall be deemed to have been received instantaneously on transmission provided that they are confirmed as set out above and are received during normal business hours, otherwise delivery will be deemed to have been received on the next working day.
- 17.6 No third party shall have any right under the Contract (Rights of Third Parties) Act 1999 in connection with the Contract unless expressly provided for in the Contract.