

Hazardous or Liquids Waste Terms and Conditions

1 DEFINITIONS

The following words have the meanings set out below:

Agreement means this document including these terms and conditions, any attached Schedule and any other document comprising the contract between the parties.

Allowable Weight means the allowable weight of the Contents of each piece of Equipment, being no more than 70 kilograms per cubic metre, or as set out in the Schedule indicating the maximum permitted weight of the Contents.

Anti-Corruption Law means any statute, law, code, regulation or similar instrument in connection with the prohibition of bribery and corruption that is applicable to the performance of this Agreement.

Australian Consumer Law means the *Australian Consumer Law* at Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as varied from time to time.

Claim means any claim, demand, fine, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against the person, however arising and whether ascertained or unascertained.

Commencement Date means the date specified as such in this Agreement or, if no date is specified then the date this Agreement is executed by the Customer.

Contents means material of any kind that has been placed in the Equipment, comprising Permitted Contents and any Non-Compliant Contents.

CoR Laws means any laws in relation to safety concerning the carriage of goods by road, including as to mass, dimension, load restraint, speed, fatigue and vehicle standards, roadworthiness and maintenance and including the HVNL.

CPI means the Consumer Price Index (Transport) Australia published by the Australian Bureau of Statistics. If that CPI no longer exists, CPI means the nearest equivalent measure that replaces it.

Customer means the customer specified in this Agreement, whether as a waste generator or acting on behalf of a waste generator under any Waste Laws.

Customer Service Team means the ETS customer service team contactable at the email address specified in this Agreement or if no team is specified the ETS contact specified in this Agreement.

Decreased Recyclable Revenue means any decrease (at any time after the Commencement Date) in the amount that ETS is able to receive in the relevant commodity markets for any Contents that comprises Permitted Contents that is recyclable.

Disposal means the disposal of Contents at transfer stations, recycling centres, landfill sites and any other disposal facilities (including those owned or operated by ETS).

Disposal Site Costs means the charges, fees and expenses that are or will be incurred by ETS in carrying out the Services by transfer stations, recycling centres, landfill sites and any other disposal facilities (including those imposed by ETS' disposal facilities provided that any such charges, fees and expenses are no greater than those that are charged by ETS to other customers for similar services having regard to volumes and materials).

Equipment means all equipment to be rented by the Customer from ETS, or which ETS supplies to the Customer to use, under this Agreement, including without limitation, the equipment specified in the Schedule or otherwise agreed in writing by the parties.

ETS means REMONDIS Australia Pty Ltd ABN 95 002 429 781 (trading as Environmental Treatment Solutions) and its subsidiaries and any related body corporate within the meaning of the *Corporations Act, 2001, Cth*.

Excess Weight means the amount (in kilograms) of any Contents over and above the Allowable Weight.

Extended Term means any term of this Agreement after the Initial Term.

Fees means all charges, fees and expenses, however described, payable by the Customer to ETS under this Agreement, including without limitation, all of the charges, fees and expenses set out in the Schedule or otherwise agreed between the parties.

Futile Fee means the amount specified as the 'Futile Fee' in the Schedule.

Hazardous or Liquid Waste means any material that is:

- (a) identified in the Waste Laws as being liquid waste (including waste that is semi-liquid, sludge, slurry or the like);
- (b) identified in the Waste Laws as being controlled, hazardous, dangerous, trackable or regulated waste;
- (c) the subject of prescribed tracking, management, disposal or other requirements or restrictions under the Waste Laws (over and above those applicable for general waste types) by reason of the type, composition or nature of the waste; or
- (d) dangerous or hazardous, has dangerous or hazardous characteristics, or has

the ability to become dangerous or hazardous upon contact with any other substance or material, including but not limited to waste that is or that contains asbestos, acid, solvent, mineral, grease, liquid concrete or any flammable, explosive, corrosive, infectious or toxic substance.

HVNL means the *Heavy Vehicle National Law and Regulations* and any other laws of any State/Territory which give effect to any of them, *Road Traffic (Administration) Act 2008* (WA) and *Road Traffic (Vehicles) Act 2012* (WA), any similar laws in any State/Territory and any replacement or modification of any of the foregoing and any Industry Code of Practice registered under the Heavy Vehicle National Law.

Initial Term means the period commencing on the Commencement Date until the expiry of the period specified in this Agreement.

Increased Market Costs means increases (at any time after the Commencement Date) in charges, fees or expenses that are or will be incurred by ETS to provide the Services, including:

- (a) fuel costs for the transport of Contents or Equipment or the operation of vehicles used to transport either of them;
- (b) subcontractor costs for the provision of any aspect of the Services that ETS subcontracts, either for the Term or from time-to-time during the Term; and/or
- (c) repairs and maintenance costs for Equipment or any vehicles used to transport the Equipment.

Modern Slavery Laws means any statute, law, code, regulation or similar instrument in connection with the reporting of modern slavery that is applicable to the performance of this Agreement, including the *Modern Slavery Act 2018* (Cth).

Non-Compliant Contents means material that is not Permitted Contents.

Permitted Contents means material that is of a type, composition or nature set out in the Waste Specifications.

Personnel means any officers, employees, agents, representatives and subcontractors of the Customer or ETS (as applicable).

Regulatory Costs means any costs, charges and expenses that are or will be incurred by ETS in carrying out the Services and imposed by any legislative requirement or the requirement of any authority or person acting with legislative authority.

Schedule means Schedule 1 and any other schedule or annexure attached to this document.

Services means any or all of the following:

- (a) the services provided by ETS to the Customer that are set out in the Schedule;
- (b) any services provided by ETS to the Customer that are reasonably necessary for ETS to provide the Services set out in the Schedule;
- (c) the supply of any Equipment to the Customer in the manner and quantities as set out in the Schedule;
- (d) any services provided by ETS to the Customer that are reasonably necessary for ETS to supply to the Customer any Equipment set out in the Schedule, including services for the maintenance or repair of the Equipment;
- (e) any services otherwise agreed in writing by the parties.

Site means the premises specified in this Agreement or otherwise agreed in writing by the parties.

Term means the Initial Term and any Extended Term.

Waste Laws means the State and Federal laws, applicable in the jurisdiction or jurisdictions in which the Services are carried out, that govern the identification, notification, handling, transport and disposal of waste, including the identification, notification, handling, transport and disposal of waste identified in the applicable laws as being Hazardous or Liquid Waste.

Waste Specifications means the waste types, composition or nature as set out in the Schedule, manifest, quote for collection by ETS or as otherwise agreed in writing by the parties.

2 SERVICE AND SITE ACCESS

- 2.1 ETS agrees to provide the Services to the Customer in accordance with this Agreement at the Site, for the Term and at times agreed by the parties or as ETS reasonably requires to meet its operational requirements from time to time.
- 2.2 Subject to clause 2.3, the Customer agrees to exclusively use ETS to provide the Services during the Term.
- 2.3 If the Customer requires additional waste and recycling services that are not the Services during the Term and that the Customer has not already agreed to exclusively acquire from a third party prior to the commencement of the Term of this Agreement, the Customer will give ETS the opportunity to submit a proposal for those services before seeking proposals from another service provider. ETS must submit this proposal within 7 days of the Customer requesting such a proposal. The Customer will also provide ETS with a 'last right of refusal', being

the opportunity to meet any proposal received by any other service provider. ETS must submit any such proposal within 3 days of the Customer giving notice of the proposal of the other service provider. For clarity, nothing in this clause 2 precludes the Customer from acquiring additional services from alternative suppliers, subject to the Customer complying with this clause.

- 2.4 The parties may agree in writing to change the Services, including the timing, frequency, location, place, address, Waste Specifications or Fees. For clarity, the Customer acknowledges and agrees that:
- ETS is under no obligation to accept a request by the Customer for a change to the Services;
 - if Services are changed under this clause 2.4, they may result in increases to Fees payable by the Customer.
- 2.5 The Customer must ensure that ETS has unimpeded access at all times to the Site in order to perform the Service and warrants that all ground surfaces at the Site are suitable for providing the Services.
- 2.6 If ETS attends the Site but:
- is unable to gain safe and unimpeded access;
 - is delayed in gaining access;
 - is unable to provide the Services; or
 - refuses to collect the Contents due to the presence of Non-Compliant Contents,
- then unless ETS' inability or delay was caused by ETS' negligent act or omission, the Customer shall pay ETS a Futile Fee as specified in the Schedule for the attempted provision of the Services.
- 2.7 The parties agree that the Futile Fee reflects a genuine pre-estimate of ETS' costs of attending the Site and responding to the particular circumstances preventing the provision of the Services.
- 2.8 Nothing in clause 2.6 waives, limits or alters any other right of ETS or obligation, requirement or liability of the Customer under or in connection with this Agreement, except to the extent of the amount of the Futile Fee.
- 2.9 The Customer must consult, communicate and cooperate with ETS in providing all required information for the purpose of facilitating a pre-service Site risk assessment, in a format determined by ETS. The Customer must notify ETS in writing within 2 days, should any circumstances or conditions of any Site change.

3 EQUIPMENT

- 3.1 The Customer must:
- ensure that the Equipment is only used for the purpose for which Equipment of that kind is commonly supplied (and in particular is not used for domestic and household waste of any kind) and in accordance with any instructions given by ETS;
 - ensure the safekeeping of the Equipment, the cleanliness of the Equipment and that the Equipment is not damaged, defaced or has any identifying marks removed from the Equipment and must notify ETS immediately if any Equipment becomes damaged, defective or dangerous;
 - ensure that nothing but Permitted Contents is placed in the Equipment; and
 - not claim any proprietary right to or otherwise deal with the Equipment, which at all times remains the property of ETS.
- 3.2 The Customer must ensure that the Contents of each piece of Equipment at no time exceed the Allowable Weight. If the Customer does not comply with this requirement then ETS may at its discretion either refuse to collect the Contents (in which case a Futile Fee will be charged under clause 2.6), or charge the Excess Weight Fee as specified in the Schedule.
- 3.3 The Customer agrees to promptly do anything that ETS reasonably requests (including obtaining consents, and signing and producing any documents), and to provide all assistance and information necessary, to ensure that ETS can perfect, preserve, maintain, protect, or otherwise give full effect under the *Personal Property Securities Act 2009* (Cth) (**PPSA**), to this Agreement and any security interests created by this Agreement, including registering one or more financing statements in relation to the security interests created by this Agreement. Each party waives its rights to receive any verification statement and any other notices that may be required or desirable under the PPSA to the extent permitted at law.
- 3.4 Obligations under clause 3.1 are material obligations.

4 THE CONTENTS

- 4.1 The Customer warrants that:
- the Waste Specifications are complete and accurate, including without limitation, that the Waste Specifications correctly identify the Contents according to the Waste Laws and correctly identify any Hazardous or Liquid Waste; and
 - it has and will not make available to, or require, ETS to collect, remove, handle or dispose of Non-Compliant Contents.

- 4.2 The warranties under clause 4.1 are material obligations.
- 4.3 Subject to clause 5.2, title to all Contents passes to ETS upon the loading of the Contents onto or into ETS' collection vehicle. ETS has no obligation to return part or all of the Contents to the Customer, including any Contents that may have been inadvertently presented to ETS.

5 NON-COMPLIANT CONTENTS

- 5.1 The Customer acknowledges and agrees that:
- ETS may in its absolute discretion refuse to handle any Non-Compliant Contents; and
 - if any Contents include Non-Compliant Contents and ETS refuses to collect the Contents then the Customer will be liable to pay a Futile Fee under clause 2.6.
- 5.2 Without limiting any other provision of this Agreement, if any Contents includes Non-Compliant Contents and they are loaded by ETS, the Customer agrees and acknowledges that:
- ETS collects and loads the Non-Compliant Contents as the Customer's agent and title to the Contents does not pass to ETS;
 - ETS may return, and the Customer must accept the return of, the Contents including the Non-Compliant Contents, to the Customer;
 - ETS may charge, and the Customer must pay, any reasonable additional Fees (including any Regulatory Costs, Disposal Site Costs) for the handling, removal, return or Disposal of the Non-Compliant Contents and any additional expenses, costs or losses that ETS reasonably incurs relating to the handling, removal, return or Disposal of the Non-Compliant Contents; and
 - it shall indemnify ETS in respect of any Claim arising out of or connected with ETS carrying out Services in relation to the Non-Compliance Contents, or collecting, handling, transporting or disposing of the Non-Compliant Contents.
- 5.3 Obligations under clause 5.2(c) and 5.2(d) are material obligations.

6 ACCEPTANCE OF NON-COMPLIANT CONTENTS

- 6.1 The Customer may make a written request to ETS to provide services to handle, remove or Dispose of waste products that would otherwise be Non-Compliant Contents (**Additional Contents**).
- 6.2 Any request made under clause 6.1 must include written confirmation of the waste type, composition and nature of any Additional Contents, including identification of the Additional Contents according to the Waste Laws and identification of any Hazardous or Liquid Waste.
- 6.3 ETS may accept or refuse a request made under clause 6.1 at its absolute discretion.
- 6.4 If a request made under clause 6.1 is accepted by ETS:
- the Services with respect to the Additional Contents will be subject to the terms of this Agreement;
 - the Waste Specifications for the Additional Contents will include only those materials of a waste type, composition and nature disclosed to ETS in writing when making the request under clause 6.1; and
 - the Customer must pay ETS any agreed additional fees or amounts for these additional Services in accordance with the terms of this Agreement.
- 6.5 Obligations under clause 6.4(c) are material obligations.

7 TERM

- 7.1 This Agreement commences on the Commencement Date for the Initial Term.
- 7.2 If the parties wish to extend the Initial Term or any Extended Term they shall do so by written agreement prior to the end of the relevant Term.
- 7.3 Subject to clauses 7.4 and 7.5, if either party does not wish to extend any Term of this Agreement that party must provide the other party with at least 60 days' written notice prior to the expiration of the relevant Term.
- 7.4 If the Term:
- has not been extended; and
 - neither party has provided notice of termination in accordance with clause 7.3,
- then upon expiry of the Term, this Agreement will automatically renew for successive periods each of 3 months without further action by either party until such time as the Term is extended or this Agreement is terminated.
- 7.5 If the relevant Term of this Agreement is an automatic renewal Term and clause 7.4 applies, either party may terminate this Agreement by providing the other party with 30 days' prior written notice.

8 FEES AND GST

- 8.1 The Customer must pay ETS the Fees and must, in addition to the Fees, pay to ETS the amount of any goods and services tax (GST) in respect of any taxable

- supply under this Agreement.
- 8.2 Without limitation to any other terms of this Agreement (including terms providing for price variations or increases), the Customer agrees and acknowledges that ETS may increase Fees by giving the Customer 14 days' prior written notice in any of the following circumstances:
- (c) in July of each calendar year during the Term in line with the percentage increase in the CPI in the preceding 12-month period. The CPI shall be calculated using the last available figure for the percentage increase in the CPI over the preceding 12 month period;
 - (d) at any time to reflect increases to Disposal Site Costs;
 - (e) on a six monthly basis to reflect any Increased Market Costs and/or Decreased Recyclable Revenue (for clarity, Fee increases under this clause 8.2(c) may occur at the same time as a CPI increase under clause 8.2(a) and at each six month interval thereafter during the Term);
 - (f) at any time to reflect increases in Regulatory Costs.
- 8.3 The Customer may terminate this Agreement in respect of a notified Fee increase under clauses 8.2(b) or (c) if:
- (a) the Customer provides a written notice of its termination to ETS on or before the expiry of the 14 day notice period under clause 8.2; and
 - (b) a Fee increase covered by a notice under clauses 8.2(b) or (c) exceeds 120% of the total face value of all Fees set out in the Schedule (as otherwise amended from time-to-time) immediately prior to the Notice taking effect.
- 8.4 Obligations under clause 8 are material obligations.

9 PAYMENT TERMS AND CREDIT APPLICATION

- 9.1 Subject to clause 9.2, the Customer must pay all undisputed Fees within 14 days of the invoice date and agrees that ETS may suspend the Services if payment of undisputed amounts is not received on time.
- 9.2 The Customer must notify ETS in writing of any dispute in relation to any amount invoiced to the Customer within 14 days of the relevant invoice date by contacting the Customer Service Team.
- 9.3 If the Customer fails to pay any undisputed Fees or other amount when due, the Customer must pay interest to ETS on the unpaid Fees at the rate of 10% per annum from the due date to the date of payment together with all ETS' reasonable debt collection and legal costs.
- 9.4 The Customer by this Agreement applies for credit and authorises and directs ETS to conduct enquiries regarding its credit standing.
- 9.5 The Customer authorises ETS, to the extent allowed by any relevant privacy legislation, to:
- (a) disclose information about the Customer and this Agreement to a credit reporting agency;
 - (b) obtain from a credit reporting agency or other credit provider a credit report containing personal credit information about the Customer to assess the Customer's creditworthiness or in relation to the collection of any overdue payments;
 - (c) give to, and seek from, other credit providers information about the Customer's credit arrangements including information about its creditworthiness, history or capacity; and
 - (d) list a default against the Customer with any credit reporting agency if any undisputed amount due and payable under this Agreement is unpaid.
- 9.6 Notwithstanding any other provision of this Agreement, if the outcome of ETS' credit enquiries is unsatisfactory to ETS (in its absolute discretion) or if the Customer has provided misleading information, ETS may terminate this Agreement by providing the Customer with 7 days' written notice.
- 9.7 Obligations under clauses 9.1 and 9.3 are material obligations.

10 TERMINATION AND CONSEQUENCES

- 10.1 Without limiting any other termination rights in this Agreement, either party may terminate this Agreement by written notice to the other party if:
- (a) the other party becomes subject to any form of insolvency administration or any court action is commenced or resolution proposed or passed to place the other party under an insolvency administration; or
 - (b) the other party breaches any of its material obligations under this Agreement and, if that breach is capable of remedy, fails to remedy that breach within 7 days' written notice to do so; or
 - (c) the other party breaches any of its material obligations under this Agreement and that breach is incapable of remedy.
- 10.2 If either party terminates this Agreement, the Customer must pay to ETS within 14 days of the date of any notice or invoice or both any outstanding Fees payable by the Customer under the terms of this Agreement.
- 10.3 Where ETS has terminated this Agreement in accordance with the terms of this Agreement, the Customer must also pay to ETS:
- (a) the amount of any damage or loss, that will be or has been suffered by ETS as a result of the Customer's breach of this Agreement; and

- (b) any reasonable costs or expenses incurred or that will be incurred by ETS as a result of the Customer's breach or termination of this Agreement.
- 10.4 Without limiting ETS' rights at law and acknowledging that ETS has entered into this Agreement in reliance on its exclusive and fixed-term nature, if the Customer:
- (a) terminates this Agreement without a contractual or legal right to do so; or
 - (b) repudiates this Agreement, either by words or conduct, including without limitation by refusing to allow ETS to provide the Services,
- the Customer must pay ETS on demand the following amounts that would otherwise have been payable to ETS had the Agreement expired at the end of the then current Term:
- (c) any outstanding Fees payable by the Customer under the terms of this Agreement;
 - (d) Fees relating to the Services that would have been payable by the Customer during the relevant Term from the date of the wrongful termination or repudiation up to the last day of the then relevant Term; and
 - (e) all other costs and expenses reasonably incurred by ETS as a result of the wrongful termination or repudiation by the Customer, in respect of which ETS shall take reasonable steps to mitigate any such other costs and expenses.
- 10.5 Unless otherwise agreed in writing by the parties, amounts under subclause 10.4(d) will be determined by:
- (a) averaging the monthly aggregate Fees for Services and any Equipment (excluding third party costs) charged by ETS to the Customer by the duration of the relevant Term from its Commencement Date to the date that it was terminated or repudiated under clause 10.4(a) or (b);
 - (b) applying the Fee average determined under subclause 10.5(a) to the remaining period of the relevant Term (that is, the period from the date of termination or repudiation under clause 10.4(a) or (b) to the date on which the relevant Term of the Agreement would otherwise have expired).
- 10.6 The amounts payable by the Customer under clause 10.3:
- (a) will be summarised in a written demand made by ETS; and
 - (b) must be paid by the Customer by the date specified in the written demand for payment made by ETS.
- 10.7 If the Customer is in breach of any term of the Agreement and fails to remedy the breach within 7 days of being requested to do so by ETS, then ETS upon giving the Customer 7 days' notice of its intention to remove the Equipment, may enter the Site and remove the Equipment, and the Customer expressly authorises ETS to access the Site for this purpose.
- 10.8 This clause 10 survives termination.

11 LIABILITY AND INDEMNITY

- 11.1 The parties acknowledge that under the Australian Consumer Law, consumers have certain rights which cannot be excluded. Nothing in this Agreement will be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law and which by law cannot be excluded, restricted or modified.
- 11.2 To the fullest extent permitted by Law, ETS expressly excludes all rights, representations, guarantees, conditions, warranties, undertakings, remedies, liabilities or other terms that are not set out in this Agreement.
- 11.3 To the extent that any law (which mandatorily applies and which cannot be excluded) prohibits the exclusion of any rights, representations, guarantees, conditions, warranties, undertakings, remedies or liability ETS' liability or obligation is limited to, at ETS' election:
- (a) carrying out the Services again; or
 - (b) paying the reasonable costs of having the Services carried out by another service provider.
- 11.4 Subject to clauses 11.1 and 11.5, the Customer indemnifies ETS and ETS' Personnel against any Claim or liability arising out of or in connection with:
- (a) any breach of this Agreement by the Customer or its Personnel;
 - (b) any non-compliance by ETS with the Waste Laws, to the extent that the non-compliance is caused by the Customer's breach of this Agreement or failure to comply with the requirements of the Waste Laws, including in relation to the notification, segregation, packaging or labelling of the Contents;
 - (c) any negligent, reckless or intentional act or omission or wilful misconduct by the Customer or its Personnel;
 - (d) ETS' and its Personnel's entry into, presence on or exit from the Site whilst performing its obligations under this Agreement or otherwise related to this Agreement;
 - (e) any loss or theft of, or damage to, the Equipment, plus any reasonable costs related to the retrieval or delivery of the Equipment and the provision of any replacement Equipment;
 - (f) any loss, damage, costs, expenses, penalties, fines or other amounts or charges incurred by ETS and its Personnel as a result of:

- (i) any Non-Compliant Contents being placed in the Equipment or collected by ETS; or
 - (ii) any Equipment being over its Allowable Weight;
 - (g) personal injury, death or loss of or damage to ETS' property or any third party's property, including the Equipment;
 - (h) any action or Claim arising in relation to a breach of clause 14 or other non-compliance with CoR Laws or Waste Laws any other law or regulation by the Customer or its Personnel; and
 - (i) wrongful termination and or repudiation of this Agreement by the Customer.
- 11.5 The Customer's liability under clause 11.4 will be reduced proportionally to the extent that liability is caused or contributed to by the negligent act or omission or breach of this Agreement by ETS or its Personnel.
- 11.6 Subject to the terms of this Agreement, ETS is not liable to the Customer for consequential or economic loss or damage, including loss or liability that is not the direct result of or the immediately identifiable consequence of its act or omission; loss of all profits or revenue (whether direct or indirect); loss of benefit of any contract; delay damages; loss of production or production stoppage; or loss of data whether such loss is direct or indirect and is not liable for any exemplary or punitive damages of any kind.
- 11.7 Neither party nor any of its contractors, agents or third parties will be liable for any failure or delay in complying with any obligation imposed by this Agreement, if the failure or delay arises from any circumstance beyond its control, including without limitation fire, flood, earthquake, epidemic, pandemic, act of god, explosion, war, insurrection, sabotage, industrial disputes, embargo, changes in law, delays or disruption by government or government agencies.
- 11.8 This clause 11 survives termination.
- 12 DISPUTES**
- 12.1 In the event of a dispute in relation to this Agreement the Customer must provide ETS' Customer Service Team with written notice within 6 months of the event or incident causing the dispute.
- 12.2 The Customer agrees and acknowledges that ETS shall be discharged of all liability under this Agreement unless the Customer gives notice under clause 12.1 and brings a suit within 6 months after the event giving rise to any dispute under this Agreement.
- 12.3 Nothing in this clause permits the Customer to set off any amounts due and payable to ETS in accordance with clause 9.
- 12.4 To the extent of any inconsistency between this clause and clause 9.2, clause 9.2 prevails.
- 13 GENERAL**
- 13.1 The Customer may assign, novate or transfer any of its rights or obligations under this Agreement with the prior written consent of ETS.
- 13.2 ETS may subcontract its obligations under this Agreement without prior consent or written notice to the Customer. ETS can assign, novate or transfer any or all of its rights or obligations under this Agreement (including to any related body corporate of ETS as defined in the Corporations Act 2001 (Cth)) with prior written notice to the Customer. If ETS subcontracts its obligations, it will remain responsible for the acts of its subcontractor as if such acts were performed by ETS' Personnel under this Agreement.
- 13.3 Any term, clause or sub-clause of this Agreement which is found to be void or otherwise ineffective may be severed and will not affect the validity of the other provisions of this Agreement.
- 13.4 The terms and conditions set out in this Agreement are the whole of the contract between the parties to it and no terms and conditions contained in, or attached to, or otherwise sent to ETS by the Customer, including any contained in any purchase order (however described) issued by the Customer will amend or affect this Agreement. This Agreement may only be varied by written agreement by the parties or as otherwise set out or referred to in this Agreement.
- 13.5 The parties agree to comply with all applicable laws, including but not limited to, the CoR Laws and Waste Laws.
- 13.6 The parties acknowledge that notices must:
- (a) be in writing and be marked as a "notice"; and
 - (b) be sent by way of pre-paid post or email to a party to the physical or email address specified in this Agreement or the address otherwise notified to the other party.
- 13.7 The parties agree and acknowledge that any notice given under clause 13.6 is sufficient and effective and may be contained in or with an invoice from ETS.
- 13.8 This Agreement is exclusively governed by and is to be construed in accordance with the laws of the State or Territory in which it is made and the parties irrevocably submit to the non-exclusive jurisdiction of the courts in that State or Territory and any court competent to hear appeals from those courts.
- 13.9 The Customer must at its own expense procure and maintain at all times during the Term the following minimum insurance policies with a reputable insurer and must, on request, provide ETS with evidence of such policies:
- (a) public liability insurance for an amount not less than \$10 million any one claim and unlimited as to the number of claims; and
 - (b) an appropriate policy of insurance that covers loss, theft, or damage to the Equipment during any rental period for an amount not less than the new replacement value of the Equipment.
- 13.10 If the Customer is entering into this Agreement as trustee then the Customer in its own right and as trustee of the relevant trust represents and warrants to ETS first, that it is empowered to enter into this Agreement under the terms of the trust, second, that in doing so it is acting in the interests of all the beneficiaries of the trust and, third, that the trust has sufficient assets to meet the Customer's obligations under this Agreement. This warranty is repeated every time ETS carries out a Service.
- 13.11 Obligations under clause 13.10 are material obligations.
- 14 COR LAWS AND WASTE LAWS**
- 14.1 Without limiting any other provision of this Agreement, the Customer must and warrants that it has and will at all times during the Term and relating to the performance of this Agreement:
- (a) comply with the CoR Laws and Waste Laws;
 - (b) not do or require or refrain from doing or requiring anything which would directly or indirectly cause or encourage any person, including ETS, its Personnel, or its employed or engaged drivers, to breach any CoR Law or Waste Law;
 - (c) comply with any compliance policy, working practices and policies, instructions, request for information or reasonable direction of ETS in relation to compliance with the CoR Laws or the Waste Laws and the Services;
 - (d) ensure that Equipment and Contents comply with and are within the Allowable Weight and comply with any segregation, packaging, labelling or notification requirements in the Waste Laws at the time that they are received by ETS; and
 - (e) promptly advise ETS of any facts or circumstances which come to its attention which may give rise to any breach or allegation of breach of the CoR Laws or Waste Laws and provide ETS with any information or documentation reasonably requested in relation to the same.
- 14.2 The Customer agrees and acknowledges that:
- (a) if the Services include any segregation, packaging or labelling of the Contents as required under the Waste Laws, ETS carries out those Services as agent for, and at the direction of, the Customer; and
 - (b) ETS or any its personnel (including drivers) may refuse to perform Services related to or connected with the collection of any material (including Permitted Contents or Non-Compliant Contents) under this Agreement if the performance of such Services would cause (directly or indirectly) ETS or its personnel to breach any CoR Law or Waste Law (in which case a Futile Fee will be charged under clause 2.6).
- 14.3 Where the Permitted Contents are supplied in accordance with any relevant guidelines, orders and exemptions issued by the NSW Environmental Protection Authority (or equivalent) or under any Waste Laws (including any relevant Resource Recovery Order and Resource Recovery Exemption issued under the *Protection of the Environment Operations (Waste) Regulation 2014* (NSW) (or equivalent Waste Law)), the parties warrant and agree to comply with such guidelines, orders and exemptions in relation to the Permitted Contents, including any directions, conditions and record keeping requirements.
- 14.4 Obligations under this clause 14 are material obligations.
- 15 ANTI-CORRUPTION AND MODERN SLAVERY**
- 15.1 Each of the parties agrees to comply with the Anti-Corruption Laws and Modern Slavery Laws and must not commit any act or omission which causes or could cause it or the other party to breach, or commit an offence under, any Anti-Corruption Laws or Modern Slavery Laws.
- 15.2 Each party warrants and represents that it has not been convicted of any offence and has not been the subject of any investigation or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under any Anti-Corruption Laws or Modern Slavery Laws.
- 15.3 Each party must, to the extent permitted by law, promptly notify the other party in writing if it becomes aware at any time during the Term that any of the representations and warranties set out in this clause are, or might reasonably be expected to be, no longer correct.
- 15.4 Obligations under clause 15 are material obligations.
- 16 CARBON CREDITS**
- 16.1 The rights to and interests in any actual or potential Carbon Credits, if any,

arising from any Services or the carrying out of any obligation pursuant to any agreement will, as between the Customer and ETS, vest in ETS, and the Customer will have no legal right to those Carbon Credits.

- 16.2 If part or all the Services under this Agreement contribute to an eligible offset project (as defined in the Carbon Farming Act) in respect of which ETS is the project proponent (including but not limited to the 'Emissions Reduction Fund'), then the rights to any Carbon Credits generated under the eligible offset project, Carbon Farming Act or other Carbon Scheme vest with ETS, and not with the Customer.
- 16.3 Without limiting clause 16.1 and 16.2, where there is an eligible offset project established or proposed, the Customer agrees to provide all reasonable assistance to ETS to ensure any declaration of the eligible offsets project is not revoked. In particular, the Customer must:
- (a) ensure that they appropriately separate their Waste into the intended bins provided by ETS; and
 - (b) comply with any written notice from ETS requesting information in relation to the Services, to enable ETS to comply with its statutory obligations under the Carbon Farming Act (including to enable ETS to give a written report under s76 of that act) and maintain the eligible offset project's declaration, within the timeframe specified in that notice.
- 16.4 Nothing in this Agreement will be construed so as to prevent ETS from dealing with Carbon Credits as it sees fit (including trading them on ETS' behalf with any person).
- 16.5 ETS may at any time, trade or otherwise deal with Carbon Credits on its own behalf.
- 16.6 This clause 16 survives termination.
- 16.7 For the purpose of this clause 16, the following definitions apply:
- Carbon credit** means an 'Australian carbon credit unit' under the Carbon farming Act or any other benefit or valuable right or entitlement (including credit, cost abatement, offset or income) under any other Carbon Scheme.
- Carbon Credit Contract** means a 'carbon abatement contract' under the Carbon Farming Act or any other contract which ETS agrees to transfer a carbon credit to a person other than the Customer
- Carbon Farming Act** means the *Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth)*.
- Carbon Scheme** means any scheme, policy, legislation or arrangement under which an incentive is given to a person in the form of a Carbon Credit to promote the reduction of emissions of carbon or carbon equivalent substances or the containment of carbon or carbon equivalent substances.