

Standard Terms – Waste Disposal

1. Definitions and Interpretation

1.1 Definitions

In this Agreement:

Agreement means the following documents which will be read and construed together:

- (a) these Terms and Conditions; and
- (b) the Agreement Specifics.

Agreement Specifics means the document entitled “service agreement”, “quotation” or “proposal” or similar document which details the Services, fees, and other terms which apply to the Services.

Change in Law means the introduction of, a change in, or a change in the interpretation or administration of, a Law. For the avoidance of doubt, any new charge or levy payable under any Law relating to waste disposal or landfill usage will be considered a Change in Law.

Confidential Information means all information (whether of a technical, industrial, engineering, scientific, business or financial nature or otherwise) whether written, oral or in electronic form which is disclosed by one party to the other in the course of this Agreement and the provision of the Services.

Fees means the Service fees and charges (including any rebates) payable under this Agreement and as set out on our Website, and as adjusted in accordance with this Agreement.

Intellectual Property Rights means any intellectual or industrial property rights (including any registered or unregistered trade marks, patents, designs or copyrights) and includes the right to have Confidential Information kept confidential.

Law means any law of Australia, including a statutory instrument of any kind, and any judgment, order, policy, or official directive or request of any government, government agency, or person charged with the administration of a law.

Services means the services described in the Agreement Specifics and any other services we provide you under this Agreement.

Site means each of our facilities or landfills referred to in this Agreement.

Terms and Conditions means this document entitled “Standard Terms – Waste Disposal”.

Waste Type means:

- (a) Recyclable Waste – waste we say may be beneficially reused or recycled.
- (b) General Waste (putrescible & non putrescible) – pre-classified solid wastes including waste that does not undergo environmentally significant physical, chemical or biological transformations once landfilled and which does not include the following waste types (c) to (f).
- (c) Medical/Sanitary Waste – waste (excluding radioactive waste) produced by a hospital, clinic, medical, or related practice or waste collected from designated sanitary hygiene units, and which do not include the following waste types (d) to (f).
- (d) Prescribed or Other Waste – any waste which does not fit within paragraphs (a) to (c) including asbestos (not accepted into transfer stations) or which requires special treatment or handling, the type and manner of treatment being prescribed in this Agreement.
- (e) Liquid Waste – liquid or semi-liquid wastes which do not include waste types described in paragraphs (a) to (d).
- (f) Non-pre-classified solid waste including contaminated soils (general/ restricted/ hazardous) and special waste requiring waste classification reports & analysis and specialised pre-approval bookings.

We, us, our means Cleanaway Pty Ltd or such other entity (or entities) set out in the Agreement Specifics which is (or are) the supplier of the Services.

Website means <https://www.cleanaway.com.au/our-services/fees-charges/>.

You, your means the person, firm or corporation named in the Agreement Specifics for whom we perform or are to perform the Services for. If there are two or more persons or entities referred to in the Agreement Specifics, then such persons or entities will be bound by the provisions of this Agreement jointly and severally. You or your also includes your employees, contractors, agents, representatives, workers and any permitted assigns.

1.2 Interpretation

A reference to:

- (a) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or replacement of any of them; and
- (c) **includes** or **including** means includes without limitation.

2. Supply of Services

- (a) We agree to provide the Services:
 - (i) on the days and during the opening hours for each Site (published by us from time to time on our website page for the relevant Site);
 - (ii) exercising reasonable care, skill and judgment; and
 - (iii) in compliance with all Laws.
- (b) You acknowledge and agree that:
 - (i) despite any other clause of this Agreement, we are not required to accept any waste that we are not licensed to accept under our licence for the relevant Site; and
 - (ii) the acceptance of any waste is subject to each Site’s waste acceptance procedure (published by us from time to time at each Site).
- (c) We may (but are not obliged to) inspect, sample, analyse or test any waste

delivered by you for disposal at any Site before accepting that waste.

- (d) You must:
 - (i) unload the waste at the Site(s) in the areas and in the manner directed by us;
 - (ii) ensure that your personnel, contractors and agents, comply with all of our (or any of our contractors, subcontractors or agents or other third party acting on our behalf) health and safety and site requirements for each Site (published or notified by us from time to time at each Site); and
 - (iii) comply with all Laws to the extent necessary to enable us to perform the Services.

3. Fees

- (a) The Fees are based on the details set out in the Agreement Specifics.
- (b) It is your responsibility to ensure that the waste we dispose of is the same as the Waste Type specified in the Agreement Specifics, as set out in clause 8, and does not exceed the allowed weights or volumes (if any) set out in each Site’s waste acceptance procedure and you must notify us in advance of any waste to be disposed of which does not comply with this.
- (c) If you notify us under clause 3(b), and we are prepared to provide Services in respect of that waste, we may offer you updated Fees in respect of that waste, and you will be taken to have agreed to these Fees as a variation of the Agreement if you accept, or continue to accept, our Services in respect of that waste.
- (d) If you do not notify us under clause 3(b), and we incur additional costs as a result of disposing of that waste, we may pass those costs on to you.

4. Fee variations

We will charge you the Fees.

- (a) We may adjust the Fees at any time to pass on increases in the waste levy or if a Change in Law results in an increased cost to us in providing the Services. We will provide you with at least 30 days’ written notice of any Fee adjustment.
- (b) Not used.
- (c) Not used.
- (d) We may adjust your Fees otherwise than as described in clause 4(a) by at least 30 days’ written notice to you.
- (e) For the purposes of this clause 4, where reasonably practicable we will provide our written notice to you via your billing email address which you are taken to have received unless you have otherwise notified us in writing of another email address for service.
- (f) We will provide you with further information in relation to any Fee adjustment upon request.

5. Payment

- (a) You must pay us the Fees (including GST) as specified in an invoice issued by us within 30 days of the date of that invoice or on such other terms as may be specified on the invoice. A failure to pay an invoice within the payment terms constitutes a breach of this Agreement.
- (b) If you do not pay the invoice within the payment terms, we may charge you a late payment Fee as set out on our Website on each unpaid invoice.
- (c) If we have provided you with at least one written payment reminder, then we may suspend providing the Services while your account remains in arrears.
- (d) We may charge you a reasonable administration fee if you ask us to provide you with an additional copy of an invoice or other document that has previously been provided to you.

6. GST

If goods and services tax or similar value added tax (GST) is or becomes payable on any supply under this Agreement, you must pay us the GST amount imposed at the same time as payment of the Fees. The Fees are expressed exclusive of GST.

7. Suspension

We may suspend some or all of the Services:

- (a) if required by Law; or
 - (b) where we consider, acting reasonably, there is a potential or immediate threat to public interest, health or safety, damage to property, or harm to the environment,
- and in such circumstances, you are precluded from making a claim against us.

8. Waste

If required by Law, we are your agent with respect to disposing of the waste. Where the Services include the transport of waste subject to waste transport or tracking requirements under environmental laws, you agree to do all things reasonably necessary, including completing forms and declarations, to allow us to comply with those requirements. Where you have not completed all necessary forms and declarations we may complete these for you for an agreed fee. We rely on the information provided by you and any generators of the waste you provide to us to determine our pricing, classification and acceptability under this Agreement. You warrant to us that the waste materials to be disposed of by us: corresponds to the Waste Type and/or description set out in the Agreement Specifics; is owned by you; is what you tell us it is (and you have made due and careful enquiry as to the source, components and characteristics of the waste); where it is packaged waste, is in appropriately labelled sealed containers; is compliant with all transport regulations guidelines including applicable Australian Dangerous Goods Codes; excludes

radioactive waste; and unless we have expressly agreed otherwise in writing, excludes highly flammable, explosive, biochemical, asbestos or other substances which we have specified to you in writing. Title to all waste material in your possession and control which is disposed of, other than the excluded waste referred to in this clause, will vest with us when accepted at the relevant Site. Title to and liability for waste materials excluded from or not compliant with this Agreement will remain with you and you agree to indemnify, defend and hold us harmless against all liabilities, loss, damage and claims arising out of the breach of this clause. Any waste that does not comply with this clause 8 may incur additional Fees as set out in clause 3 and we may refuse to handle or remove the material at our discretion.

9. Force majeure

In the event that any circumstances beyond our reasonable control (including without limitation climatic conditions, floods, fires, explosions, epidemics, a strike, lockout, industrial dispute or substantial and prolonged shortage of materials, or Change in Law) prevent us from being able to perform an obligation under this Agreement, this Agreement may be suspended by us. In such circumstances you are precluded from making a claim against us.

10. Indemnity

You indemnify us from and in respect of all loss, damage, liabilities or claims caused directly or indirectly by you or your employees, subcontractors or agents, to any person or property by, through or in connection with the Services or any breach by you of this Agreement. This indemnity is reduced to the extent that we have caused or contributed to such loss, damage, liability or claim.

11. No representations

You acknowledge we have not made any representations to you with respect to the Services or their supply unless those representations are expressly stated in this Agreement. For the avoidance of doubt, nothing in this clause is intended to exclude liability for fraud or fraudulent misrepresentation or any other representations which cannot be excluded by law.

12. Limitation of liability

- (a) All statutory or implied guarantees, conditions and warranties are excluded to the fullest extent permitted by Law.
- (b) We do not limit or exclude the application of any provision of any statute (including the *Competition and Consumer Act 2010* (Cth) if you are a 'consumer' as that term is defined in such Act, or any similar Law) where to do so would contravene that statute or cause any part of this clause to be void.
- (c) Our liability to you under this Agreement is limited, at our option, to:
 - (i) supplying the Services again; or
 - (ii) paying the cost of having the Services supplied again.
- (d) Except under clause 10, neither party shall be liable to the other for any special, exemplary, punitive or consequential loss or damage (including without limitation any loss of profit, loss of opportunity and loss of goodwill) incurred directly or indirectly in connection with the Services.

13. Default and termination

- (a) If a party (the **Defaulting Party**) has breached a term of this Agreement, then the other party (the **Non-Defaulting Party**) may give a written notice to the Defaulting Party describing the breach. If the breach is not remedied by the Defaulting Party within 14 days after the notice was given, then the Non-Defaulting Party may terminate this Agreement by written notice. A party may terminate this Agreement immediately if the other party dies, becomes insolvent or bankrupt, or any court action is commenced (or resolution proposed or passed) to place that party under any form of bankruptcy, insolvency, administration, receivership or liquidation.
- (b) We may otherwise terminate this Agreement on giving written notice to you if prior to commencement of the Services it becomes apparent to us, acting reasonably, that you do not meet our credit worthiness requirements. If we terminate under this clause, we will refund to you any amount you have paid for the Services that have not been provided.

14. Subcontracting and assignment

- (a) You agree that we may sub-contract all or part of the Services or the performance of our obligations under this Agreement at any time. Where we request in writing, you must do all the things reasonably required to give effect to any subcontracting.
- (b) You agree for us to assign or novate this Agreement or any rights we have under this Agreement at any time and we will give you notice if we assign or wish to novate under this clause. Where we request in writing, you must do all the things reasonably required to give effect to any assignment or novation that we undertake.
- (c) You cannot assign, novate or otherwise transfer this Agreement without our written consent (which we will not unreasonably withhold).

15. Authority

You warrant that the person signing this Agreement on your behalf is authorised to sign this Agreement and bind you to the terms of this Agreement. You indemnify us from and in respect of all loss, damage, liabilities or claims arising from breach of this warranty.

16. Confidentiality

Unless disclosure is required by Law, the parties agree to keep confidential the Confidential Information of the other. We will retain ownership of, and title to, all Intellectual Property Rights relating to the provision of the Services.

17. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the state or territory in which the Services are primarily performed. Any court proceedings shall be filed and heard in that state or territory. If the Services are delivered or performed in one or more state and/or territory in accordance with this Agreement, the laws of the state of Victoria shall prevail and any court proceedings shall be held in the state of Victoria.

18. Amendment

We may from time to time amend these Terms and Conditions and provide you not less than 7 days' notice of such amendments in writing. If you deliver waste for disposal at any Site after the date that such amendments apply to these Terms and Conditions, this will be deemed acceptance of such amendments.

19. Inconsistencies

To the extent of any inconsistencies between the Agreement Specifics or these Terms and Conditions (including the schedules or annexures to it), the following order will prevail to the extent of any inconsistency:

- (a) Agreement Specifics; and
- (b) these Terms and Conditions.

20. Whole agreement

- (a) This Agreement supersedes all prior arrangements, understandings and agreements between the parties and represents the entire complete and exclusive understanding and agreement between the parties relating to the subject matter of this Agreement.
- (b) Any terms or conditions contained in any invoice, purchase order, engagement terms or similar document provided by you will not apply unless we expressly agree in writing to the contrary.
- (c) For the avoidance of doubt, nothing in this clause is intended to exclude liability for fraud or fraudulent misrepresentation or any other representations which cannot be excluded by law.

21. Severability

If any provision of this Agreement shall be or be determined to be illegal, invalid, or voidable the legality or validity of the remainder of this agreement will not be affected and will continue in full force and effect.

22. Counterparts

This Agreement may be executed in a number of counterparts. It comprises all the counterparts, taken together.