

Lancashire Waste Services Ltd – Terms and Conditions of Hire

Interpretation

- 1.1 In this Agreement (comprising these conditions of hire) references to the "Hirer" are to the firm, company, authority or person (natural or legal) references to the "Vehicle" are to the vehicle(s) described on the On Hire Form.
- 1.2 Any reference in this Agreement to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

Duration of Hire

- 2.1 The Hirer shall hire the Vehicle from the Company, subject to and in accordance with the terms and conditions in this Agreement, commencing the date referred to on the On Hire Form.
- 2.2 The Hirer shall be entitled to terminate the hire constituted at any time:
 - 2.2.1 by returning the vehicle to the Company's premises (from which the vehicle was originally collected) within the Company's normal business hours; or
 - 2.2.2 subject to clause 2.5 below, by making the vehicle available for collection at the place and time of the collection agreed with the Company; provided that the Hirer shall still be liable to pay rental for the vehicle in accordance with clause 4 below on the basis of the total number of days for which the Vehicle is on-hire to the Hirer.
- 2.3 Except where the Company has agreed to hire-out the Vehicle for a particular time period, as specified on the On Hire Form, the Company shall be entitled to the hire constituted by this Agreement at any time by giving not less than 7 days' notice to the Hirer. In any event, regardless of any agreement to hire-out the Vehicle for a particular period, the Company shall be entitled to terminate this Agreement with immediate effect (but without prejudice to any other right or remedy of the Company) on the Company giving notice to the Hirer if at any time any one or more of the following event occurs (or has occurred prior to the date of this Agreement and is continuing):
 - 2.3.1 the Hirer fails to pay owing by it to the Company under this Agreement, or any other contract between the Company and the Hirer, by the due date for payment;
 - 2.3.2 the Hirer commits any material breach of this Agreement;
 - 2.3.3 the Hirer refuses to allow the Company access to the Vehicle for purposes of carrying out servicing or repairs pursuant to clause 5.7;
 - 2.3.4 the Hirer is unable to pay its debts, or makes any voluntary arrangement with its creditors, or goes into administration or liquidation (otherwise than the purposes of amalgamation or reconstruction), or an encumbrancer takes possession, or a receiver is appointed, over any of the property or assets of the Hirer under the law of jurisdiction, or the Hirer ceases, or threatens to cease to carry on business;
 - 2.3.5 the Company reasonably believes that any of the events mentioned in clause 2.3.4 above is about to occur in relation to the Hirer.
- 2.4 On termination of the hire of the Vehicle for whatever reason, the Hirer shall subject to clause 2.5 below, immediately return the Vehicle in good condition to the Company at the premises from which it was originally collected, or to such other place as maybe mutually agreed.
- 2.5 The Company shall be under no obligation to collect the Vehicle from the Hirer, but where it specifically agrees to do so:
 - 2.5.1 the Hirer shall make the Vehicle available for collection in good condition at the time and place agreed with the Company.
 - 2.5.2 the Hirer shall pay on demand the Company's specified collection charge, together with the cost of fuel used in returning the Vehicle from the agreed place of collection to the Company's premises.
 - 2.5.3 the Hirer fails to make the Vehicle available for collection in accordance with clause 2.5 above, at the time and place agreed with the Company:
 - 2.5.1 the Hirer shall still be responsible for paying the relevant collection charge where the Company has dispatched a driver to the relevant place with a view to making the collection;
 - 2.5.2 the Company shall be entitled to terminate the hire with immediate effect and exercise its rights under clause 2.7 below, but if (at its absolute discretion) it elects not to do so the hire of the Vehicle shall continue (subject to clause 2.3 above) until the vehicle has been returned to the Company in accordance with clause 2.1 above or, if agreed with the Company, made available for collection at a re-arranged date. In these circumstances, the Hirer shall (for the avoidance of doubt) continue to be liable to pay rental for the vehicle in accordance with clause 4 below on the basis of the total number of days for which the Vehicle remains on-hire to the Hirer.
 - 2.5.4 If the Hirer fails to deliver-up the Vehicle in accordance with clauses 2.4 and 2.5 above:
- 2.7.1 the Company shall be entitled (but without prejudice to any other rights or remedies that it may have) forthwith to repossess the Vehicle and for this purpose to enter onto the premises of the Hirer or any other person in possession of the Vehicle on behalf of the Hirer.
- 2.7.2 the Hirer shall fully indemnify the Company on demand in respect of any and all claims, demands, damages, losses, costs, expenses or other liabilities made against or incurred by the Company in re-taking possession of the Vehicle pursuant to clause 2.7.1, save to the extent caused or contributed by the negligence of the Company.
- 2.8 On termination of the hire of the Vehicle for whatever reason, the Hirer shall be responsible for ensuring at its own cost that the Vehicle is returned (or made available for collection) in a clean and undamaged state, with any waste or other contents removed or discharged, all water/waste tanks and pumping equipment properly steam cleaned and (where the Vehicle is a mechanical sweeper, irrespective of type) with a complete set of new brushes and skid plates.

Use of Vehicle

- 3.1 The Hirer shall not use the Vehicle for any purpose other than that for which it was designed ("Permitted Purpose")
- 3.2 The Hirer warrants and undertakes to the Company that the Hirer:
 - 3.2.1 is a Waste Collection/Disposal Authority and duly registered to carry controlled waste under the terms of a waste carriers licence and that the carriage and disposal of "controlled waste" in the Vehicle will not be in the contravention of the requirements of Control of Pollution (Amendments) Act 1989, the Environmental Protection Act 1990, the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations SI 1991 No. 1624 or any other applicable legislation; or
 - 3.2.2 will not use the Vehicle to carry "controlled waste" within the meaning of the above mentioned legislation.
- 3.3 The Hirer shall ensure that:
 - 3.3.1 the Vehicle is included on its "Operators Licence" within the specified time as determined by the Department for Transport or other applicable authority;
 - 3.3.2 any driver of the Vehicle is licensed and qualified to drive and operate a vehicle of that type for its Permitted Purpose;
 - 3.3.3 without prejudice to the generality of the foregoing provisions in this clause 3, the Vehicle is at all times operated (or, when not in use, stored) properly, safely and in accordance with all applicable laws and regulations.

Rentals

- 4.1 Subject to clause 4.3 below, the Hirer shall pay the Company rental charges for the Vehicle on the basis of the daily rates, such charges are to be paid within 30 days of the Hirer receiving the invoice.
- 4.2 The Hirer acknowledges that the rental charges are payable on a monthly basis, for each day the Vehicle is on-hire to the Hirer.
- 4.3 If the Hirer has agreed to hire the vehicle for a particular number of days and the Company has agreed in return to offer a discount on its standard municipal hire rates, then if the hire is terminated early (either by the Hirer under clause 2.2 above or by the Company under clauses 2.3.1 to 2.3. above) the Company shall be entitled to apply for the full, non-discounted rates for each day the Vehicle was on-hire to the Hirer and to recover the balance the Hirer.
- 4.4 Rental charges are (without limitation) exclusive of:
 - 4.4.1 VAT;
 - 4.4.2 the full tank of fuel with which the Vehicle will be supplied and with which the Vehicle must be returned on termination of the hire;
 - 4.4.3 the cost of routine maintenance pursuant to clause 5.6 whilst the Vehicle is on-hire to the Hirer;
 - 4.4.4 all costs associated with tyre repairs whilst on hire to the Hirer, including punctures but excluding fair wear and tear;
 - 4.4.5 the cost of cleaning the Vehicle and removing or discharging any waste or other contents on termination of the hire;
 - 4.4.6 where the Vehicle is a mechanical sweeper, the cost of a new set of brushes and skid plates;and to the extent that any such items of expenditure fail to be met by the Company the Company shall be entitled to invoice the Hirer for such items. For these purposes and in relation specifically to clause 4.4.5 above, where the Vehicle fails to be returned in a clean state with any waste or other contents duly removed or discharged and any waste/water tanks and pumping equipment properly steam cleaned, the Company's standard waste removal and cleaning charge will be £70.00 without prejudice to the Company's right to levy a higher charge in exceptional circumstances.
- 4.5 For the avoidance of doubt, the Company shall be entitled to recover the Vehicle from the Hirer, and the Hirer shall be obliged to pay, any and all sums which become payable by the Hirer under this Agreement from time to time, regardless of whether or not the Hirer has provided the Company with a purchase order number for those sums or otherwise complied with its own internal purchasing procedures.

General Hire Obligations

- 5.1 The Hirer shall take delivery of the vehicle at the premises of the Company or at such other place as mutually agreed.
- 5.2 The Vehicle shall at all times remain the property of the Company and the Hirer shall not (and shall ensure its employees and sub-contractors and any other drivers do not) do anything whereby the rights of the Company in respect of the Vehicle are or may be prejudicially affected and, in particular (without limitation) the Hirer shall not with possession of sub-lease or otherwise dispose or purport to dispose of any interest in the Vehicle.
- 5.3 The Hirer shall ensure that the Vehicle is comprehensively insured to the Company's reasonable satisfaction against all normal risks and shall:
 - 5.3.1 procure that the Company's interest in the Vehicle is noted on the Hirer's insurance policy; and
 - 5.3.2 produce to the Company on demand a copy of the relevant insurance policy, premium receipts and insurance certificate by way of evidence of the insurance remaining in full force and effect.
- 5.4 The Hirer shall inform the Company promptly of any accident or mechanical breakdown involving the Vehicle and shall take forthwith any reasonable steps required by the owner:
- 5.4.1 with regard to the repair of the Vehicle, in particular (but without limitation) shall only arrange for work to be carried out on the Vehicle with the prior authorisation of the Company; and/or
- 5.4.2 with regard to any claim under the policy of insurance covering the Vehicle.
- 5.5 For the avoidance of doubt, in the event that the Vehicle is rendered un-useable for any reason, whether due to accident or breakdown or otherwise, the Company shall be under no obligation to supply any replacement Vehicle.
- 5.6 The Hirer is responsible for routine daily maintenance and cleaning of the Vehicle, including (but not limited to) checking and replenishing oil, fuel, water, (including the correct anti-freeze content) and other fluids (in each case to be replenished in accordance with the manufacturer's requirements, if any) and ensuring correct maintenance of batteries, wheel nuts and tyre pressures. In the case of gully suction vehicles and sweepers, the Hirer shall also ensure that during cold weather water is drained from the Vehicles Tank and pumping equipment after use to avoid that water freezing and causing damage to the Vehicle. In the case of chassis and compact sweepers the Hirer is responsible for cleaning the body interior to ensure rubbish is removed from the filter grids.
- 5.7 Except as described in clause 5.6 above, the Company shall be responsible for carrying out its own cost periodic servicing of the Vehicle, together with repairs necessitated by mechanical defects caused by misuse of the Vehicle whilst on hire to the Hirer shall be borne by the Hirer.
- 5.8 Without prejudice to any other right or remedy of the Company (whether under this Agreement or otherwise), the Hirer shall indemnify the Company on demand in respect of:
 - 5.8.1 the full replacement value for the loss of, or the full cost of rectifying any damage to, the Vehicle whilst on hire to the Hirer, together with any loss of rental income suffered by the Company as a result of such loss or damage (and for the purposes of this clause 5.8.1 "replacement value" shall mean the higher of the depreciated value of the Vehicle as reflected in the Company's books of account, and the Vehicles market value). Without prejudice to the generality of the previous sentence, following the loss of any Vehicle (whether as a result of an accident, theft or otherwise) the Hirer shall indemnify the Company against loss of rental income in respect of the entirety of the periods between the date of the relevant loss and the date on which any replacement Vehicle has been purchased (following the receipt of relevant insurance proceeds and/or compensation from the Hirer to allow for that purchase) and is available to the Company to be hired-out;
 - 5.8.2 any loss, damages, cost, expenses (including legal expenses) and other liabilities incurred by the Company in connection with any claim made against the Company for loss, damage, injury or death arising out of any accident involving the Vehicle whilst on hire to the Hirer;
 - 5.8.3 all fines, penalties and other liabilities suffered or incurred by the Company arising out of any non-compliance or contravention, in respect of the Vehicle or its use, of any transport, traffic or other law or regulation whilst on hire to the Hirer;- in each case, except to the extent caused or contributed by the negligence or breach of contract by the Company.

Owners Liability

- 6.1 Subject to clause 6.2 below, the Company shall not be liable to the Hirer by reason of any negligence or any other tortious action or any representation (unless fraudulent), or implied warranty, condition or other term, or under the express terms of this Agreement, or otherwise, for any loss of profits, loss of anticipated revenues or savings, loss of business opportunities, damage to goodwill or any indirect, special or consequential loss or damage, costs, expenses, or other such claims for compensation whatsoever (whether caused by negligence of the Company, its employees, or agents or otherwise) which arises out of or in connection with this Agreement.
- 6.2 Nothing in this Agreement shall operate to limit or exclude liability for death or personal injury caused by the negligence of the Company or its employee's or agents, or fraudulent misrepresentative or any other matter in respect of which liability cannot lawfully be limited to excluded.
- 6.3 The Company shall have no liability to the Hirer and shall not be deemed to be in breach of this Agreement in respect of any delay in performing or failure to perform any of the Company's obligations under this Agreement to the extent that such delay or failure is caused by circumstances outside of the Company's control.

General

- 7.1 No variation to this Agreement shall be binding on the Company unless agreed in writing by an authorised representative of the Company.
- 7.2 The Hirer shall not be entitled to assign its rights or obligations under this Agreement without the prior written consent of the Company.
- 7.3 Each of the parties acknowledges and agrees that this Agreement constitutes the entire agreement and understanding between the parties with respect to its subject matter and shall supersede any previous agreements. The Hirer further acknowledges and agrees that it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) of any person other than as expressly set out in this Agreement.
- 7.4 No delay or failure on the part of the Company in enforcing any provision in this Agreement shall be deemed to be a waiver or create a precedent or in any way prejudice the Company's rights under this Agreement.
- 7.5 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force effect.
- 7.6 For the avoidance of doubt, nothing in this Agreement is intended to confer on any third party any benefit or the right to enforce any term of the contract.
- 7.7 This Agreement shall be governed by and construed in accordance with the laws of England and shall be subject to the non-exclusive jurisdiction of the English Courts.