

TERMS AND CONDITIONS OF ENGAGEMENT: HAZARDOUS WASTE COLLECTION SERVICES

Sortera Ltd. shall provide the services in consideration of the charge payable by the customer and subject to these Terms and Conditions.

In these conditions:

‘Carrier’ Sortera Ltd. or any organisation to whom Sortera Ltd. may sub-contract the carriage of hazardous wastes;

‘Classification’ the customer’s determination of the waste classification code following the guidance of the UK Government, and where necessary by use of the technical guidance from the Environment Agency (WM3);

‘Commencement Date’ means the date set out in the contract, where the Contract Date is different from the intended start date for the contracted hazardous waste service;

‘Consignee’ the receiver of hazardous waste (Sortera Ltd.);

‘Consignor’ the person/organisation arranging for the removal of the hazardous waste;

‘Contract’ means any contract entered into between Sortera Ltd. and the customer for the provision of a hazardous waste removal and disposal service;

‘Contract Date’ means the date the Contract is signed by both parties;

‘Driver’ means the driver of the vehicle;

‘Customer’ means the person or company to which hazardous wastes removal for disposal services are conducted on behalf of, and to whom accounts are rendered;

‘Duty of Care obligations’ means the customer’s obligations under the Environmental Protection (Duty of Care) regulations applicable in England and Wales in particular under S34 of the Environmental Protection Act 1990 (1990 Act);

‘Hazardous waste’ is waste that is harmful to humans or to the environment, or contains material or substances that are harmful to humans or to the environment. This includes waste with a high level of persistent organic pollutants (POPs);

‘Hire’ means the temporary provision of a vehicle for depositing of hazardous wastes;

‘Hire charge’ means the prevailing price (plus Value Added Tax) for the provision of the hazardous waste service;

‘Law’ or **‘the Law’** means any applicable statute, statutory provision, subordinate legislation or regulation (as varied or modified from time to time), common law or the requirements of any government department, local authority or other public or competent authority and any guidelines or codes published from time to time;

‘Producer’ or **‘holder’** the organisation or person that produced the hazardous waste or is storing the hazardous waste pending consignment;

‘Sortera Ltd.’ means Sortera Limited (and where the context so admits their servants, agents and subcontractors);

‘Registered producer’ any hazardous waste producer that produces more than 500kg of hazardous waste annually who must be registered with the Environment Agency;

‘Services’ or **‘the services’** means the collection of hazardous waste from the customer and the disposal of collected wastes;

‘Service charge’ means the prevailing price (plus Value Added tax) for the provision of the service;

‘Site’ means the premises, road or public highway where the service is delivered;

‘Termination date’ means the date stipulated in the Contract;

‘Terms and Conditions’ means these terms and conditions which shall apply to the contract;

‘Unregistered producer’ a hazardous waste producer that produces less than 500kg of hazardous waste annually;

‘Wasted journey’ means where Sortera Ltd. is unable to collect the hazardous waste due to a breach by the customer of any of its obligations under this Contract and the Terms and Conditions;

‘Wasted journey charge’ means the prevailing price (plus Value Added tax) to be paid by the customer that reflects the wasted cost and expense incurred or loss suffered by the Sortera Ltd. as a result of the wasted journey.

‘Vehicle’ means the vehicle which is collecting the hazardous waste and is the subject of the Contract and any equipment mounted on or ancillary to the vehicle.

1. General Conditions

- 1.1 No agent or employee of the Sortera Ltd. is permitted to alter or vary these conditions in any way or to give any consent thereunder unless he is authorised to do so and any such variation, alteration or consent is recorded in writing by Sortera Ltd.
- 1.2 No order placed by a customer shall be deemed accepted by the customer until a written or electronic acknowledgement of the order is provided by Sortera Ltd. to the customer.
- 1.3 Acknowledged orders may not be cancelled, varied, amended, deferred or postponed except with the express agreement in writing or electronically of Sortera Ltd. such cancellations, variations, amendments, deferring or postponement will be on a full indemnity basis.
- 1.4 Sortera Ltd. will use its reasonable endeavours to comply with the customer’s reasonable requirements relating to the provision of hazardous waste collection services but accepts no responsibility for any failure to supply or for any delay in supplying the service whatever the cause whether caused directly or indirectly by circumstances beyond the Sortera Ltd.’s control or any unforeseen or abnormal conditions or by any act or neglect on the part of the Sortera Ltd.’s agents or employees.
- 1.5 Sortera Ltd. reserves the right to supply an alternative, fully or in part, to the ordered requirements should the ordered requirements not be available to the Sortera Ltd. Sortera Ltd. will attempt to inform the customer of the alternative arrangement. Sortera Ltd. shall not be liable for delay or loss sustained by the customer through the supply of alternative arrangements.
- 1.6 Sortera Ltd. may assign the works in whole or in part to a third-party organisation.
- 1.7 If Sortera Ltd. assigns the works in whole or in part to a third-party organisation the customer’s obligations will be to the third-party.
- 1.8 No terms other than those expressly contained in these conditions shall apply or form part of the Contract.
- 1.9 Specifically there are excluded any implied warranties as to the condition, quality and fitness for purpose of the vehicles undertaking the service.
- 1.10 The customer organisation will take out and maintain minimum insurance cover of £5,000,000 in respect of its liabilities under this Contract and will produce a copy of the insurance policy on request.
- 1.11 The customer, if a private person, will ensure that sufficient insurance cover is available to cover all foreseeable events under this Contract and will produce a copy of the insurance policy on request.
- 1.12 Sortera Ltd. reserves the right to defer or cancel the works if they are prevented or significantly delayed due to circumstances beyond its control (force majeure). Such circumstances include, but are not limited to, acts of God, government actions, war, national emergency, acts of terrorism, protests, riots, civil unrest, fire, explosion, flood, epidemic, and labour disputes.
- 1.13 If the circumstances in 1.12 above continue in excess of 180 days the customer may terminate any orders by giving written notice to Sortera Ltd.
- 1.14 Subject to termination as set out in clause 13 this Contract shall come into effect on the Contract date or Commencement date and shall remain in effect until the Termination Date.
- 1.15 At the termination date, Sortera Ltd. reserves the right to collect any containers without further notice to the customer.

2. Condition of Service Vehicle

- 2.1 Sortera Ltd. does not warrant that the collection vehicle shall be fit for any special purpose unless specifically agreed in advance and in writing, including by electronic means.
- 2.2 The customer expressly agrees:
- 2.2.1 Except as specifically otherwise agreed in writing Sortera Ltd. shall be under no obligation to collect hazardous waste elsewhere than on the public highway.
- 2.2.2 The customer shall save harmless and keep safe Sortera Ltd. through indemnity against any claim, demand or penalty arising out of the period of the collection vehicle being on the site and which could not have been made had the collection vehicle not been on the site.
- 2.2.3 The customer shall reimburse Sortera Ltd. for any loss, damage, or harm to any Sortera Ltd. vehicle whilst on the site or under the direction or control of the customer from whatever cause except wear and tear.
- 2.2.4 In the event of loss or damage to the collection vehicle, the customer shall pay for the costs incurred by Sortera Ltd. in respect of such loss or damage.
- 2.2.5 The customer shall fully indemnify Sortera Ltd. in respect of any claims for injury, damage or harm caused to persons or property arising from using any Sortera Ltd. vehicle in connection with or arising out of, hazardous waste collection, however the injury, damage or harm may arise and in respect of all costs and charges in such connection.
- 2.2.6 The customer shall at all times indemnify Sortera Ltd. (or its agent or sub-contractor) for any cost, claim, damage, expense or loss incurred by Sortera Ltd. (or its agent or sub-contractor) where the hazardous waste collection involves the vehicle (or any part of it) leaving the public highway.

3. Consequential Losses

- 3.1 Sortera Ltd. shall not be liable for any consequential loss or damage arising from this contract.
- 3.2 The date and time for collection of hazardous waste are estimates only and Sortera Ltd. shall not be liable for the consequences of late collection.
- 3.3 Sortera Ltd. shall not be liable for any delay or default in performance arriving out of force majeure or any reason outside its reasonable control.
- 3.4 Save for liability for death or personal injury caused by Sortera Ltd.'s negligence, Sortera Ltd.'s liability to the customer shall not exceed the hire charge.

4. Collection Service

- 4.1 Any time quoted for a collection or service is an estimate. Sortera Ltd. will endeavour to meet requested times but is not bound to meet the requested time.
- 4.2 Except as specifically otherwise agreed in writing, Sortera Ltd. shall be under no obligation to deliver the collection service elsewhere than on the public highway.
- 4.3 For any collection or service that is not on a public highway, the customer must provide a safe route from, and to, the public highway. The customer must ensure that the route is adequate for a Large Goods Vehicle and that sufficient space is available for all site activities.
- 4.4 Sortera Ltd. reserves the absolute right to refuse to enter the site or location if the route or the work site is believed to be unsafe or too small for the activities or there are dangers or risks that would impact the work to be conducted. Determining if a route and worksite are safe rests with Sortera Ltd.'s driver.
- 4.5 Any person supplied by the customer to supervise the loading shall be deemed to be under the customer's control, which alone shall be responsible for any damage caused to Sortera Ltd.'s vehicle as a result of the supervision of such loading. In particular, if the collection service, is directed to be off the public highway, the customer shall be responsible for damage to property caused during such loading and collection, as well as any damage caused by the presence of Sortera Ltd.'s vehicle.
- 4.6 Where the driver is directed to a collection point on or from any site which is off a public highway, the customer shall take all reasonable steps to ensure the safety of Sortera Ltd.'s vehicle, driver and other members of the public.
- 4.7 The customer shall permit Sortera Ltd. free access and sufficient working space to enable Sortera Ltd. to conduct all necessary operations.

5. Sortera Ltd.'s Liability and Indemnity

- 5.1 Sortera Ltd. shall be under no liability whatsoever to the customer for any damage however caused (save in relation to death or personal injury caused by Sortera Ltd.'s negligence) and all terms implied by law in relation to the provision of the services are excluded to the fullest extent permitted by law.
- 5.2 Sortera Ltd. shall not be liable for any loss or damage to any property of the customer or property under the customer's control.
- 5.3 Sortera Ltd. shall not be liable to the customer for indirect or consequential loss (including, without limitation, economic loss or loss of profits, production, business, reputation or goodwill) or for any damage or expense of any nature in connection with the provision of the collection services.

6. Customer's Liability and Indemnity

- 6.1 Without limitation to any other rights or remedies available to Sortera Ltd. the customer shall fully indemnify Sortera Ltd. against all losses and costs arising from:
- 6.1.1 Any breach of the customer's obligations under this Contract.
- 6.1.2 Any act or default of the customer.
- 6.1.3 Any breach by the customer of the Law.
- 6.2 Without limitation to the foregoing whilst the vehicle is at the site off the public highway other than damage such as might have been caused by negligent driving on the part of Sortera Ltd.'s driver or a mechanical defect in the vehicle the customer shall save harmless and keep Sortera Ltd. indemnified against any claim or demand that would not have been made had the driver not been so directed by the customer.
- 6.3 Without limitation to the foregoing the customer shall save harmless and keep Sortera Ltd. indemnified against any loss or damage, fine or penalty suffered by Sortera Ltd. on account of the customer's failure to comply with relevant legislative requirements and the customer's Duty of Care obligations, including the proper classification of waste.
- 6.4 The customer is solely responsible for risk assessing and making safe the worksite(s) and surrounding areas, including ensuring sufficient room with sufficient height clearance.
- 6.5 Any additional or special requests made by the customer will not negate or conflict with these terms and conditions in any way.
- 6.6 The provisions of clause 8 shall survive termination of this Contract.

7. Demurrage and Wasted Journey

- 7.1 The time allowed for the collection of hazardous waste from the site is thirty (30) minutes. If the vehicle is kept waiting longer than this after arrival on the site, the customer shall be liable for reasonable demurrage (including the costs of any associated further financial impact relating to observance of driver's hours and working time rules).
- 7.2 If upon arrival at the site in the reasonable opinion of Sortera Ltd.'s driver it is unsafe or otherwise the driver is unable to position the vehicle for the collection then this shall be deemed a wasted journey incurring a wasted journey charge and without limitation to clause 8.1 and its subclauses a wasted journey charge at Sortera Ltd.'s prevailing rate shall immediately be due and payable by the customer to Sortera Ltd.

8. Permit Requirements

- 8.1 Save where Sortera Ltd. expressly assumes such responsibility in this Contract (any costs associated being payable by the customer to Sortera Ltd. on demand) the customer shall have responsibility for ensuring that all permissions required before the vehicle can lawfully be stationary on the site are obtained, including permission required under the Highways Act 1980 or other applicable rule or law, have been or will be obtained before the customer directs the driver to be stationary at the site.

9. Characterising and coding of Acceptable Wastes (Duty of Care)

- 9.1 The customer agrees as waste producer that it is responsible for:
- 9.1.1 Correctly describing and classifying the waste in accordance with published guidance from time to time (e.g. see Technical Guidance WM3 and Waste Duty of Care: code of practice) prior to collection by Sortera Ltd.
- 9.1.2 Ensuring each hazardous waste is correctly described and the correct coding from the List of Wastes (EWCS) is applied.
- 9.1.3 Completing consignment notes and providing completed copies of same to Sortera Ltd. as a proper and complete record of the transfer of hazardous waste to Sortera Ltd.

- 9.1.4 Providing Sortera Ltd. with such technical assessment and information regarding the circumstances of production of the hazardous waste in accordance with its Duty of Care obligations and any reasonable request made by Sortera Ltd.
- 9.1.5 Complying fully with its obligations as a hazardous waste producer/holder in accordance with the duty of care set out in S34(1) of the 1990 Act and the code of practice issued under S34(7) of that Act.
- 9.1.6 Paying on demand to Sortera Ltd. all additional costs incurred by Sortera Ltd. (including the costs of analysis, classification, disposal, transportation, and professional advice) associated with any misdescribed or misclassified wastes deposited in the collection vehicle or any failure on the part of the customer to comply with the terms of this Contract and these Terms and Conditions.

10. Other Customer Obligations

- 10.1 The customer shall ensure from the time the collection vehicle arrives on site:
 - 10.1.1 The customer, its agent, or employee has been instructed in the safe use and operation of the collection vehicle and undertakes to ensure that any other user of the collection vehicles will also be accordingly instructed.
 - 10.1.2 It has obtained all consents, licences, permissions, authorisations and the like which are required for the collection vehicle to be stationary at the site.
 - 10.1.3 Any dangerous, corrosive, harmful, poisonous or toxic substances or any other contaminated material, or gas cylinders are made known to Sortera Ltd. before the collection vehicle arrives at the site.
 - 10.1.4 The collection vehicle suffers no damage except fair wear and tear.

11. Customer's Acknowledgements and Agreements

- 11.1 The customer acknowledges and agrees as follows:
 - 11.1.1 Sortera Ltd. reserves the right not to collect the hazardous waste if the customer's account is in arrears or a due payment has not been paid in accordance with these Terms and Conditions and this Contract.
 - 11.1.2 The customer shall indemnify Sortera Ltd. against the cost of safe disposal of any items collected which are in breach of clause 9 and its subclauses.
 - 11.1.3 Except as specifically otherwise agreed in writing, the customer shall fill the collection vehicle within thirty (30) minutes of the collection vehicle arriving at the site.
 - 11.1.4 The customer shall at all reasonable times allow Sortera Ltd., his agent, employees and insurers to have access to the collection area to inspect it.
 - 11.1.5 Where possible the collection will be arranged to suit the customer. If a scheduled collection is not made, the customer should advise the Sortera Ltd. and a revised schedule will be arranged.
 - 11.1.6 Whilst the driver will endeavour to obtain the customer's signature on collection; non-signature for any such collection will not be regarded as a valid reason for non-payment of any subsequent invoice raised by Sortera Ltd. and delivered to the customer.
 - 11.1.7 Sortera Ltd. cannot accept any responsibility for any fines or penalties received or incurred by Sortera Ltd. whilst carrying out the collection at the customer's direction or request.
 - 11.1.8 In respect of any such fines or penalties received by Sortera Ltd. an administration charge will be made in addition to the fine or penalty, the administrative charge will be at the prevailing rate.
 - 11.1.9 The customer accepts that Sortera Ltd. will carry out credit checks before acceptance or rejection of an account application.
 - 11.1.10 Sortera Ltd.'s credit terms for payment of all invoices are strictly 30 days from the end of the month of issue of invoice or immediately on reaching the limit of credit set, whichever comes first, when all outstanding invoices shall be paid.
 - 11.1.11 Queries related to the works or invoicing must be made within five (5) business days from the date of completion of the work, or date of the invoice.
 - 11.1.12 In the event of termination of an account all amounts due at the time of termination are deemed due and payable without further demand.

12. Sortera Ltd.'s Agreements

- 12.1 Sortera Ltd. shall ensure that the collection vehicle is clearly marked with its name, and means of contact.

- 12.2 Except as provided or otherwise agreed in writing, Sortera Ltd. agrees to dispose of the Hazardous Waste provided the contents are detailed on the consignment note and the customer has complied with its obligations under these Terms and Conditions and the Contract.

13. Termination

- 13.1 Sortera Ltd. or the customer may terminate this Contract by the service of notice in accordance with Clause 17 satisfying the following requirements:
 - 13.2 Notice must be not less than 3 months and not more than 6 months.
 - 13.3 Notice must be expressed to expire on the date 3 months after the anniversary of the Contract date.

14. Termination for Breach by Customer

- 14.1 This Contract shall immediately be terminated by Sortera Ltd. without any notice or other act on the part of Sortera Ltd. if the customer:
 - 14.1.1 Defaults in the payment of any sums due to Sortera Ltd. for the collection of hazardous waste or other charges; or
 - 14.1.2 Fails to observe and perform the Terms and Conditions or the Contract; or
 - 14.1.3 Suffers any distress or execution to be levied against it or makes or proposes to make any arrangement with its creditors or is made bankrupt or, being a Company, goes into liquidation, administration or receivership; or
 - 14.1.4 Does or causes to be done or permits or suffers any act or thing whereby Sortera Ltd.'s rights may be prejudiced.
- 14.2 The termination of the Contract under this clause shall not affect the right of Sortera Ltd. to recover from the customer any moneys due under this Contract or damages for breach of Contract.
- 14.3 The waiver by Sortera Ltd. of any breach of the Conditions of Hire or this Contract shall not prevent the subsequent enforcement of that term or condition and shall not be deemed a waiver of any subsequent breach.
- 14.4 If Sortera Ltd. terminates this Contract under the provision of this clause or the customer terminates the Contract prematurely or otherwise not in accordance with these Terms and Conditions the customer will pay to Sortera Ltd. all costs, losses, claims, damages and expenses incurred by Sortera Ltd. as a result of the customer's breach and the consequent termination.

15. Payment

- 15.1 In consideration of the provision of the hazardous waste services the customer shall pay to Sortera Ltd. the charges and any other sums due in accordance with this Contract together with any Value Added Tax thereon.
- 15.2 If payment of the charge(s) or other sum due under this Contract is not made on its due date for payment Sortera Ltd. may charge interest at the rate of 4% per annum over the base rate from time to time of the Bank of England.

16. Notification of Incidents

- 16.1 If the collection vehicle is involved in any accident resulting in harm to Sortera Ltd's driver or damage to the collection vehicles or to other property or injury to any person, Sortera Ltd. must be notified immediately.

17. Amendment

- 17.1 Sortera Ltd. reserves the right to amend this Contract and any terms including these Terms and Conditions as it considers necessary to comply with Law or Good Industry Practice from time to time or any change in the Law governing the collection transport and disposal of hazardous waste and will notify any such amendment to the customer as soon as practicable.

18. Governing laws & Jurisdiction

- 18.1 The laws of England and Wales shall apply to the Contract and the Contract and these Terms and Conditions shall be construed and interpreted accordingly. Each party shall irrevocably submit for all purposes in accordance with this Contract to the exclusive jurisdiction of the courts of England.
- 18.2 Each right or remedy of Sortera Ltd. is without prejudice to any other right or remedy of Sortera Ltd. whether under service or not.