

Terms & Conditions for Recycling, Recovery, Security Shredding and Disposal of Waste

1. Definitions

- 1.1 "Evergreen Shredding" - means Evergreen Facilities Management (UK) Ltd.
- 1.2 "Customer" – means the person firm or company or other trading organisation to which services are supplied subject to these conditions.
- 1.3 "Data Protection Legislation"- means up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK; and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.
- 1.4 "The Service" means:
- (a) The provision of a service to reclaim materials for recycling, recovery, security shredding or disposal of waste.
 - (b) Supply of any equipment, containers, bags etc for use by the Customer as part of The Service.
 - (c) Provision of a service includes the loading operations associated with The Service, transport and any other handling operation associated with The Service.
- 1.5 "Materials" means materials that Evergreen Shredding has agreed to collect or receive from the Customer.
- 1.6 "Equipment" means any equipment that Evergreen Shredding provide the Customer for the baling, compacting or storage of the materials as detailed within the Agreement.
- 1.7 "Material Price" means the price for the materials based on the value of the materials as set out in the correspondence with the Customer.
- 1.8 "Standard Service Charges" means the prices as set out in our IP3 documents for the standard services and equipment and consumables we supply.
- 1.9 "The Agreement" means this Agreement for the provision of The Service by Evergreen Shredding to the Customer and includes these Terms and Conditions.
- 1.10 "Working Day" means a normal working day (excluding weekends and public holidays in England) when banks in London are open for business.

2. Prices

- 2.1 The price is either the charges for The Service and any rental of Equipment as indicated in the Agreement or the Standard Service Charges in force at the time of collection, whichever is dated the later. All prices quoted are exclusive of VAT.
- 2.2 The Material Price as set out in the quoted values by Evergreen Shredding. This can be a payment by Evergreen Shredding or by the Customer depending on the market.
- 2.3 Evergreen Shredding reserves the right to a Contra payment in lieu of outstanding charges accrued by the Customer.
- 2.4 Evergreen Shredding may adjust the price relating to The Service and Materials collected to cover any legislation, fuel, disposal costs or any other cost variables outside of our control. Any other price variation will be subject to prior written approval of the Customer, which will be deemed as accepted by the Customer unless notice in writing of non-acceptance is received by Evergreen Shredding within 30 days of the price being notified to the Customer.
- 2.5 All sums due are payable within 30 days of the date of the relevant invoice. Payments outstanding at the due date shall attract interest in accordance with the Late Payment of Commercial Debts Regulations 2013, as amended or updated from time to time.

3. The printed terms and conditions of any purchase order or other correspondence and documents of the Customer issued in connection with this Agreement will not apply unless expressly accepted in writing by Evergreen Shredding.

4. Health & Safety

- 4.1 The Customer shall ensure that the Equipment is used properly and responsibly in accordance with the Health & Safety at Work Act 1974 and the Equipment's instructions.
- 4.2 The Customer has the responsibility to ensure the health, safety and welfare of their employees in accordance with the Health & Safety at Work Act 1974.
- 4.3 The Customer is responsible for safe loading of the Evergreen Shredding (or their Agent's) transport in accordance with the Health and Safety Executive's Guidelines.
- 4.4 Safety guidance & method statements are available for standard services on the web site www.evergreen-shredding.co.uk with hard copies available upon request.

5. Length of Term

- 5.1 This Agreement shall be deemed to have commenced on the date of the signing of the Agreement by both parties. No Equipment will be supplied until the Agreement is signed.
- 5.2 The length of the initial term is specified on the front page of the Agreement for the supply of the Service and the supply of the Equipment and, unless brought to an end by either party on not less than six months written notice prior to expiry of the initial term and save as otherwise agreed in writing by the parties, the Agreement shall continue from year to year terminable by either party on not less than six months prior written notice of termination to the other party expiring on an anniversary of the date of this Agreement ("Term").

6. Customer Obligations

- 6.1 The Customer shall not, during the Term of this Agreement engage any other business or person to carry out The Service or sell, lease or otherwise dispose of the Materials to any business or person other than Evergreen Shredding.
- 6.2 The Customer shall ensure that any person giving written instructions, or signing a waste transfer note – collection/delivery note, or any other document on behalf of the Customer pursuant to these terms and conditions is fully authorised to do so on the Customer's behalf, and Evergreen Shredding is entitled to assume that any person giving written instructions, or signing a delivery/collection note, on behalf of the Customer is so authorised, without the need to carry out further enquiry.

6.3 The Customer will comply with all legislation and regulations applicable to the storage and disposal of the Materials that is appropriate for the Customer's business, including (but not limited to) the Environmental Protection Act 1990, the Hazardous Waste (England and Wales) Regulations 2005, the Hazardous Waste (England and Wales) (Amendment) Regulations 2016, Data Protection Legislation, or the Special Waste Regulations 1996 or any subsequent modifications or amendments thereof.

6.4 The Customer is responsible for ensuring that any materials collected and/or delivered to Evergreen Shredding containing personal data, where Evergreen Shredding is acting as a data processor (as defined in clause 9.2) is only directed to the security shredding service and not any other service performed by Evergreen Shredding.

6.5 The Customer will, prior to collection, supply Evergreen Shredding with any data or information which Evergreen Shredding consider necessary as well as identify Hazardous Waste and any risks in the handling of the Materials including any times during which access will be denied.

6.6 Purchase orders – If the Customer requires purchase order numbers to be presented on their invoices for services or goods, these order numbers must be notified to Evergreen Shredding in writing/fax/email prior to the collection/delivery of service or goods.

6.7 Any Equipment supplied by Evergreen Shredding shall at all times remain the property of Evergreen Shredding. The Customer shall be responsible for its maintenance, safekeeping and for any damage whilst under its care and shall not permit its use or movement by any third party without prior written consent of Evergreen Shredding. The Equipment must be returned in the same condition as when provided at the start of this Agreement, subject to reasonable wear and tear.

6.8 The Customer shall include the Equipment on their insurance schedule at the present replacement value as detailed by Evergreen Shredding. The Customer accepts full liability for the loss of or damage to the Equipment, from whatever cause, while the Equipment is on hire/loan and will compensate Evergreen Shredding for the cost of replacement or refurbishment thereof. Evergreen Shredding can ask the Customer to view its certificate of Insurance at any time.

6.9 The Customer shall ensure that the Equipment is located, used and loaded properly and responsibly in accordance with the Health and Safety at Work Act 1974 and any other relevant statutory provisions.

6.10 In the event of contaminated material forming part of the Materials that cannot be recycled and must be sorted, the Customer shall be liable for the cost of sorting and the shredding/recycling/ disposal of the Materials

6.11 Duty of Care & Waste Hierarchy

(a) a Customer based in Scotland or Northern Ireland is obliged to maintain control of their wastes in accordance with their legal Duty of Care prior to collection by Evergreen Shredding (for information regarding the Duty of Care see: www.netregs.gov.uk)

(b) a Customer based in England or Wales is obliged to apply the waste hierarchy to all waste streams in accordance with regulation 15(1) of the Waste (England and Wales) Regulations 2011. For guidance please see the Department for Environment Food and Rural Affairs website.

7. Evergreen Shredding Obligations

7.1 Evergreen Shredding agrees at all times:

(a) To carry out The Service in a safe, efficient and professional manner.

(b) To make all reasonable efforts to ensure collections are carried out as scheduled except in the following circumstances:

i.) Evergreen Shredding (or their Agents) cannot gain access to the Equipment or the Materials; or

ii.) The Materials are not available for collection at the agreed time; or

iii.) The Materials are not baled or stacked in a safe manner; or

iv.) In the sole discretion of Evergreen Shredding, the Materials are unsafe for transportation, or

v.) Segregated materials are contaminated with general waste or hazardous waste.

In any of the above circumstances, Evergreen Shredding reserves the right to refuse collection and / or charge the Customer for the any loss incurred by Evergreen Shredding as a result of the Customer's failure to comply with this clause, including (but not limited to), petrol/diesel, drivers costs, administration costs and any other losses suffered by Evergreen Shredding as a consequence of the Customer's breach.

(c) To collect all Materials from the Customer's premises and transport, and arrange for its recycling recovery, security shredding or disposal (unless otherwise prevented from doing so by circumstances beyond its reasonable control.)

(d) To comply with all applicable Health & Safety Legislation, Environmental Legislation, and Codes of Practice concerning the collection, transportation, treatment and recycling of the materials. In this respect Evergreen Shredding warrants that it is

(i) the holder of a current and valid Waste Management License Pursuant to Section 35 of the Environmental Protection Act 1990 and (ii) a properly registered carrier of controlled waste pursuant to section 2 of the Control of Pollution (Amendment) Act 1989 and including any relevant, subsequent legislation that may come into force.

(e) To carefully supervise all activities of its collection agents in connection with the Agreement.

(f) To abide by the Security Shredding Standards BSEN 15713.

8. Provided however in the event of a suitable, safe access point from which to collect the Materials not being available, then Evergreen Shredding reserve the right to reschedule the collection. In the event that the lack of a suitable, safe access point requires Materials to be transported through the premises of the Customer then Evergreen Shredding shall not be liable for any damage caused by the operation of transporting the waste to a suitable, safe access point.

9. Data protection, security and integrity

9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations or liability for breach of those obligations under the Data Protection Legislation.

9.2 The parties acknowledge that Evergreen Shredding shall only process personal data including sensitive personal data and/or special categories of data (as defined in the Data Protection Legislation) on the Customer's behalf when performing its obligations in providing the security shredding service under this Agreement (including destroying material collected and/or delivered for Evergreen Shredding security shredding service in compliance with standard BSEN 15713) and the Customer shall comply with its obligation under clause 6.4. In these circumstances the Customer is the data controller and Evergreen Shredding is the data processor for the purposes of the Data Protection Legislation (where Personal Data, Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

9.3 Without prejudice to the generality of clause 9.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Evergreen Shredding for the duration and purposes of this

Agreement so that Evergreen Shredding may lawfully process the personal data in accordance with this Agreement on the Customer's behalf.

9.4 Without prejudice to the generality of clause 9.1, Evergreen Shredding shall, in relation to any personal data processed in connection with the performance by Evergreen Shredding of its obligations under this Agreement (including, as specified in clause 9.2):

(a) process that personal data only on the written instructions of the Customer unless Evergreen Shredding is required by the laws of any member of the European Union or by the laws of the European Union applicable to Evergreen Shredding to process personal data (Applicable Laws). Where Evergreen Shredding is relying on laws of a member of the European Union or European Union law as the basis for processing personal data, Evergreen Shredding shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Evergreen Shredding from so notifying the Customer;

(b) ensure that it has in place security measures (both technical and organisational), to protect against and which are appropriate to, the nature of the data and level of harm that might result from the unauthorised or unlawful processing of personal data;

(c) ensure that all those who have access to and/or process personal data are obliged to keep the personal data confidential;

(d) not transfer any personal data outside of the EEA;

(e) assist the Customer, at the Customer's cost, in responding to any request from a data subject (that being an individual who is the subject of personal data, including the Customer's employees, customers and/or clients, suppliers, patients, students and other third parties) and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(f) notify the Customer without undue delay on becoming aware of a personal data breach;

(g) at the written direction of the Customer, dispose of or return personal data and copies thereof, which have not been disposed of by Evergreen Shredding to the Customer on termination of the Agreement unless required by Applicable Law to store the personal data;

(h) maintain complete and accurate records and information to demonstrate its compliance with this clause 9, on reasonable notice, allow for audits by the Customer or the Customer's designated auditor; and

(i) notify the Customer immediately if Evergreen Shredding is requested to carry out an activity which shall infringe Data Protection Legislation.

9.5 Where applicable the Customer consents to Evergreen Shredding appointing a third-party processor of personal data under this Agreement. Evergreen Shredding confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in these Terms and Conditions. As between the Customer and Evergreen Shredding, Evergreen Shredding shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 9.

9.6 Where Evergreen Shredding is acting as the data controller under this Agreement, any personal data supplied to Evergreen Shredding in the course of performing this Agreement, will be held, used and maintained in accordance with our privacy policy. A copy of our privacy policy is available at <http://evergreen-shredding.co.uk/download-area-25-c.asp> or upon request.

10. Termination or Suspension of the Service

10.1 Without prejudice to any other right or remedy it may have, either party may either terminate the Agreement, or temporarily suspend the Service and remove the equipment at any time by written notice sent by next working day delivery service (in accordance with clause 12.5) to the other if:

(a) the other party is in material breach of the Agreement and has failed to remedy such breach within 30 days of receiving written notice from the other party to do so;

(b) fails to pay any monies due to the other party within 30 days of the monies becoming due;

(c) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

(d) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

10.2 For the purpose of clause 10.1(a) a material breach by Evergreen Shredding means a serious breach of any of the obligations set out in clause 7 and clause 9 of these Terms and Conditions only.

11. Limitation of Liability.

11.1 Nothing in the Agreement limits any liability which cannot legally be limited, including but not limited to liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 2 of the Supply of Good and Services Act 1982.

11.2 Subject to clause 11.1 Evergreen Shredding shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Agreement for:

(a) loss of profits;

(b) loss of sales or business;

(c) loss of agreements or contracts;

(d) loss of anticipated savings;

(e) loss of use or corruption of software, data or information;

(f) loss of or damage to goodwill; or

(g) indirect or consequential loss.

11.3 Subject to clause 11.1 the total liability of Evergreen Shredding shall not exceed £250,000 for the Term. Evergreen Shredding's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Agreement.

11.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.

11.5 This clause 11 shall survive termination or expiry of the Agreement.

12. General.

12.1 Any dispute between the two parties in respect of the Agreement shall be referred to a single arbitrator in accordance with the provisions of the Arbitration Act 1996 and any statutory modifications or re-enactment thereof for the time being in force.

12.2

(a) Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party.

(b) Each party may disclose the other party's confidential information:

i.) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12.2; and

ii.) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.

12.3 Neither party shall be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control.

12.4

(a) Evergreen Shredding may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Agreement .

(b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Agreement.

12.5

(a) any notice or other communication given to a party under or in connection with the Agreement, unless stated otherwise in these Terms and Conditions, shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.

(b) a notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.5(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Working Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Working Day after transmission.

(c) the provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.6 Except as set out in these Terms and Conditions, no variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.7 A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

12.8 If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.

12.9 Unless it expressly states otherwise, the Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

12.10 The Agreement shall be governed by and construed in accordance with the laws of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.