

Business to Business

Terms and conditions for supply of goods and services

The Customer's attention is particularly drawn to Clause 14

1. Definitions

Seller Matthews Gorseinon Road,	means Matthews Commercial Services Ltd t/a Confidential Shredding of Unit 1, Old Crown House, Swansea SA4 9GE.
Customer	means the person or business who buys or agrees to buy or rent the Goods/and or Services from the Seller.
Conditions	means the terms and conditions of sale as set out in this document and any special terms and conditions agreed in writing by the Seller.
Equipment	means the document storage consoles, bins, skips, bags, boxes and any other equipment that the Seller may provide to the Customer from time to time as part of the services as detailed within the Order.
Materials	means any materials to be destroyed by the Seller as specified in the order.
Contaminated Materials	means any materials other than those that the Seller has agreed to collect and/or destroy, pursuant to their risk assessment including (but not limited to) heavy metals, glass, batteries, matches, combustibles, liquids, flammable materials or any other material likely to cause damage to the Sellers equipment or endanger the Sellers employees.
Service Point	means the location as supplied by the Customer to the Seller for collection of the said materials with the Order.
Price	means the Price for the services/goods, and the rental of equipment (where applicable), as set out in the order. All prices will exclude VAT.
Business Day	means a day other than Saturday, Sunday or Public Holiday
Force Majeure Event	has the meaning set out in clause 16.
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database

rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Quotation	means the quotation supplied by the Seller to provide the supply of good/services to the Customer at the Customers request.
Order	means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Seller's quotation.
Customer Service Agreement	means the contract between the Seller and the Customer on receipt of an Order from the Customer, in accordance with these T&C's and the information specific within the Order.
Services	means the services supplied by the Seller to the Customer as set out in the Order and Customer Service Agreement, in accordance with these T&C's.

2. Conditions of Business

- 2.1 These Conditions shall form the basis of the contract between the Seller and the Customer in relation to the sale of Goods and/or Services, to the exclusion of all other terms and conditions including the Customer's standard conditions of purchase or any other conditions which the Customer may purport to apply under any purchase order or confirmation of order or any other document.
- 2.2 All orders for Goods and/or Services shall be deemed to be an offer by the Customer to purchase Goods and/or Services from the Seller pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods or commencement of the Services shall be deemed to be conclusive evidence of the Customer's acceptance of these Conditions.
- 2.4 These Conditions may not be varied except by the written agreement of an authorised representative of the Seller.
- 2.5 These Conditions represent the whole of the agreement between the Seller and the Customer. They supersede any other conditions previously issued.
- 2.6 Any quotation provided by the Seller does not constitute an offer, and is only valid for 30 days from date of issue, provided it has not been previously withdrawn by the Seller.

3. Supply of Services

- 3.1 The Seller shall provide the Services to the Customer as agreed through the Order and Customer Service Agreement.
- 3.2 The Seller shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 3.3 The Seller shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Seller shall notify the Customer in any such event.
- 3.4 In providing the Services, the Seller shall securely destroy all paper, data or goods supplied by the Customer, by transporting them to their premises complying with all relevant Data Protection Regulations. Once destroyed, the Seller will recycle all materials wherever possible.
- 3.5 In the instance that the Customer delivers the materials to the Sellers premises, and arranges for its destruction and recycling (wherever possible), the Customer agrees to adhere to all Health & Safety aspects of entering the premises and follows all Health & Safety instructions.
- 3.6 All equipment is the property of the Seller and the Customer shall only use the Equipment for the materials in accordance with the Customer Service Agreement. The Customer shall be responsible at all times for the Equipment supplied whilst it is at the Customers premises, including maintenance, cleaning and safe keeping. The Equipment must be returned to the Seller at the end of the Term in the same condition as when provided at the start of the agreement; however reasonable wear and tear is accepted. The Customer must also ensure that the equipment is not overloaded.
- 3.7 The Customer shall exclude any Contaminated Materials which could cause damage or injury to persons or property. Where the Customer has included such Contaminated Materials the Seller is entitled to refuse to handle or perform the Services of destroying the Contaminated Materials at the Customers Cost.
- 3.8 Whereupon the Seller and Customer have agreed to remove Hazardous Materials within the Service Agreement, a third party with expertise in the destruction of such Hazardous Materials would be instructed to destroy the materials; the charge for this destruction would be applied to the Sellers invoice to the Customer.
- 3.9 The Seller shall only collect materials that are stored within the Equipment provided. Any loose materials or excess materials that may, from time to time, be collected by the Seller shall be subject to additional charges and may result in the Seller reviewing the quantity/size of the Equipment situated at the Customer's premises.
- 3.10 The Customer shall allow the Seller unrestricted access to the Equipment at the agreed times to allow the Seller to provide the Services.
- 3.11 The material shall remain at the Customer's risk until collected and released to the Seller, with an approved collection/receipt given, and signed for by the Customer.
- 3.12 If:

(a) The Seller cannot gain access to the Equipment; or
(b) The material is not available for collection at the agreed day/time; then in either case the Seller reserves the right to charge the Customer for the any loss incurred by the Seller 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 The Seller as a consequence of the Customers breach.

4. **Price**

4.1 The Price shall be the price quoted on the Order and is exclusive of any value added tax.

4.2 The Seller remains entitled to increase the price of its services by giving the Customer 30 days written notice. Such changes can occur from fluctuations in the market prices for recycled materials / costs of labour / material costs / and the costs of complying with any legal requirement / or any other overheads.

5. **Additional Charges**

5.1 Following changes in the services supplied at the request of the Customer, and agreed by the Seller. This is to cover extra expenses as a result of the Customer's instructions, or of the failure to provide accurate instructions.

5.2 The replacement or repair cost of ANY Cabinets/Bins which have been lost, damaged or destroyed by the Customer whilst in possession of the Customer, will be paid for by the Customer in addition to the price for the Services.

6. **Payment**

6.1 Payment of the Price and VAT shall be due within 30 days of the date of the Seller's invoice. All payments shall be submitted in pounds sterling.

6.2 The Customer shall pay all accounts in full and not exercise any rights to off-set or counter-claim against invoices submitted by the Seller.

7. **Goods**

7.1 The Goods are described in the Order.

7.2 The Seller reserves the right to amend or change the specification of the Goods if required by any applicable statutory or regulatory requirements.

8. **Warranties**

8.1 The Seller warrants that the Goods and/or Services shall:

8.1.1 conform with their description;

8.1.2 be of satisfactory quality with the meaning of the Sale of Goods Act 1979;

8.1.3 be fit for any purpose held out by the Seller; and

8.1.4 be carried out in accordance with the Supply of Goods and Services Act 1982.

9. **Customer's obligations**

9.1 The Customer shall:

9.1.1 Ensure that the terms of the Order are complete and accurate;

9.1.2 Co-operate with the Seller in all matters relating to the Services;

9.1.3 Provide the Seller, its employees, agents, consultants and subcontractors, with access to the Customer's premises as reasonably required by the Seller to provide the Services;

9.1.4 Provide the Seller with such information and materials as the Seller may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;

9.1.5 Obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and

9.1.6 keep and maintain all materials, equipment, documents and other property of the Seller (Seller Materials) at the Customer's premises in safe custody at its own risk, maintain the Seller Materials in good condition until returned to the Seller, and not dispose of or use the Seller Materials other than in accordance with the Seller's written instructions or authorisation.

9.2 If the Seller's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

9.2.1 the Seller shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Seller's performance of any of its obligations;

9.2.2 the Seller shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Seller's failure or delay to perform any of its obligations as set out in this clause 12.2; and

9.2.3 The Customer shall reimburse the Seller on written demand for any costs or losses sustained or incurred by the Seller arising directly or indirectly from the Customer Default.

10. **Intellectual Property Rights**

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Seller.

10.2 All Seller Materials are the exclusive property of the Seller.

11. **Limitation of Liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

11.1 Nothing in these Conditions shall limit or exclude the Seller's liability for:

- 11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 11.1.2 fraud or fraudulent misrepresentation;
 - 11.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
 - 11.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 - 11.1.5 defective products under the Consumer Protection Act 1987.
- 11.2 Subject to clause 14.1:
- 11.2.1 The Seller shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - 11.2.2 Without prejudice to any other term of the contract the Seller will not be liable to the Customer for any damages, claims or costs arising from:
 - 11.2.2.1 A failure by the Customer to place materials in the containers supplied.
 - 11.2.2.2. Where the Customer places materials in error in the containers.
 - 11.2.2 the Seller's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the price referred to 4.1 or in the absence of a specified price in the contract, the sum paid to the Seller in the 12 months proceeding the date on which the last collection of materials was made from the Customer.
- 11.3 After the Warranty Period, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and 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 Contract.
- 11.4 This clause 11 shall survive termination of the Contract.

12. **Termination**

- 12.1 Without limiting its other rights or remedies either party may terminate the Contract by giving the other party not less than 1 months' written notice.
- 12.2 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
 - 12.2.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;
 - 12.2.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its

debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- 12.2.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
 - 12.2.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
 - 12.2.5 the other party (being an individual) is the subject of a bankruptcy petition or order;
 - 12.2.6 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 12.2.7 An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
 - 12.2.8 The holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 12.2.9 A person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 12.2.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.2.2 to clause 15.2.9 (inclusive);
 - 12.2.11 The other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
 - 12.2.12 the other party's financial position deteriorates to such an extent that in the Seller's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
 - 12.2.13 The other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 12.3 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

- 12.4 Without limiting its other rights or remedies, the Seller may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Seller if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 15.2.2 to clause 15.2.13, or the Seller reasonably believes that the Customer is about to become subject to any of them.
- 12.5 On termination of the Contract for any reason:
- 12.5.1 the Customer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Seller shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 12.5.2 The Customer shall return all of the Seller Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Seller may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safekeeping and will not use them for any purpose not connected with this Contract.
- 12.5.3 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 12.5.4 Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

13. **Force Majeure**

- 13.1 For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of the Seller including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Seller or any other party), failure of a utility service or transport network, act of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, earthquake, epidemic or similar events, or default of suppliers or subcontractors.
- 13.2 The Seller shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 13.3 If the Force Majeure Event prevents the Seller from providing any of the Services and/or Goods for more than 3 months, the Seller shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

14. **Data Protection**

- 14.1 The parties acknowledge that the Materials contain Personal Data and that the

Customer is the Data Controller and the Seller is the Data Processor for the purposes of the Data Protection Legislation under the contract (GDPR).

14.2 Both the Customer and Seller will comply with all applicable requirements of the Data Protection legislation. This condition 14 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

14.3 The Seller:

14.3.1 will process the Materials only in accordance with the Contract.

14.3.2 will ensure that it has in place appropriate technical and organisational measures to protect against the unauthorised or unlawful processing of any Materials and against accidental loss or destruction of, or damage to, the Materials, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the Materials to be protected.

14.3.3 will keep the materials confidential and secure until their destruction and will use reasonable endeavours to destroy the Materials at the Sellers depot in accordance with the British Standard EN 15713:2009.

14.3.4 will not take any copies of the Materials.

14.3.5 will ensure the reliability of its personnel and will have procedures in place for appropriate training.

14.3.6 will not transfer the Materials before their destruction to any other location outside the UK.

14.3.7 will not pass the Materials to any third parties before the destruction, unless required to do so by Law.

14.3.8 will assist the Customer to the extent reasonably required, at the Customers cost, in responding to any request from a Data Subject as defined under the Data Protection Legislation and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications and consultations with supervisory authorities or regulators.

14.3.9 will notify the Customer without undue delay on becoming aware of a Personal Data Breach.

14.3.10 will at the written direction of the Customer, delete or return the Materials to the Customer unless they have already been destroyed in accordance with the Services or the Seller is required by law to otherwise disclose, retain, store or destroy the Materials.

14.3.11 will maintain complete and accurate records and information to demonstrate its compliance with this condition 14

14.4 The provisions of Condition 14.3 shall also where relevant, apply to any information of a confidential or proprietary nature (Including information imparted

orally) relating to the Customer's business, customers, suppliers revealed to or learnt by the Seller under the Contract, save that this condition 14 shall not apply to information (other than Personal Data), in so far as such information:

14.4.1 has ceased to be a secret without default on the part of the Seller; or

14.4.2 was already in the Seller's possession prior to disclosure by the Customer; or

14.4.3 has been received from a third party who did not acquire it in confidence; or

14.4.4 was in the public domain otherwise than through breach of Contract.

14.5 The Seller will provide the Services in almost all circumstances, although there may be occasions where the Seller will have appointed or will appoint a third-party processor to carry out the Services on its behalf. The Customer consents to the Seller appointing a third-party processor to carry out the Services under the Contract.

14.6 The Seller 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 the Contract. As between the Customer and the Seller, the Seller shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to Condition 14.5.

15. **General**

15.1 Notices.

15.1.1 Any notice or other communication given to a party under or in connection with this Contract 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 or sent by prepaid post or other next working day delivery service, or by commercial courier, e-mail.

15.1.2 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

15.2 Waiver. A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.3 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

15.4 Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

15.5 This Contract contains the entire agreement and understanding of the parties relating

to the subject matter of this Contract and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between the parties, whether written or oral.

- 15.6 Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Seller.
- 15.7 Governing law. This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 15.8 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).