

TERMS AND CONDITIONS

Service and Term: Customer grants to Company the right to collect and dispose of and/or recycle all of Customer's Waste Material (as defined below) as set forth in this Agreement and customer agrees to comply with, and to make timely, monthly payments as set forth in, this Agreement, no earlier than the Date Service Begins. Company shall comply with Titles 16-A and 16-B of the NYC Administrative Code and all rules promulgated pursuant thereto, and any other laws, rules and regulations applicable to this Agreement. Company will remove Customer's Waste Material from the Service Location provided that the Service Location is consistent with all applicable laws, rules and regulations. Except as a result of Excused Performance (as defined below), Company may alter or modify pick-up times upon at least seven (7) days prior written notice to Customer. The term of this Agreement shall commence on the Date Service Begins and shall continue for a period of five (5) years. In no event shall the term of this Agreement extend beyond the last date Company is authorized under Company's agreement with the City of New York Department of Sanitation ("DSNY") entered into pursuant to Section 16-1002 of the Administrative Code to service the commercial waste zone in which the Service Location is located ("DSNY Contract").

Fees and Cost Increases: Either Customer or Company may notify the other party, in writing, that it wants to adjust the price based on a change in volume/weight; it being understood and agreed that in the event Customer disagrees with the change, a survey will be conducted to determine the amount of waste generated by the Customer. Rates and fees set forth in this Agreement may be changed by Company, in its sole and absolute discretion, upon at least fourteen (14) days prior written notice to Customer. Customers may then choose in writing to amend the existing Agreement for any rate increase or material change in service to take effect, beyond the automatic rate adjustment provided by law. This Agreement is for the rates and services stated above. Any material changes made by Company without Customer's written consent will allow Customer to void this agreement, and customer will be free to select another carter if they so choose. In any event, rates and fees may not exceed those established in accordance with Company's DSNY Contract for the applicable commercial waste zone. Company may charge additional fees in accordance with NYC Rules for cleaning containers or compactors, delivery, replacement or removal of carts or containers, rental of compactors or roll-off containers, rental of equipment other than containers/dumpsters, collection service that requires entry inside a building (other than a loading dock), requested pick-up outside of standard service hours, return rates or fees for non-collection caused by Customer, overfilled containers, designated recyclable materials or source separated organic waste with contamination of at least 10 percent, Customer created delays causing wait times of greater than 15 minutes at the time of the pick-up, late payment, insufficient funds (including but not limited to bounced check or electronic transfer that fails due to insufficient funds), payments by credit card, commercial waste audit services in accordance with Company's Zero Waste Plan, and any other fees approved by DSNY, ("Additional Fees"). If Customer requires additional pick-ups in a given month, any additional pick-up will be charged at the same rate for weight or volume, plus an additional frequency charge depending on the number of additional pick-ups. Between one and four additional pick-ups in a month will increase the frequency charge by one day; between five and eight additional pick-ups in a month will increase the frequency charge by 2 days, and between 9-12 additional pick-ups in a month will increase the frequency charge by 3 days. In all events, Company shall have the right to charge Customer for any and all costs, including, but not limited to, clean-up costs, damages or disposal fees, resulting from any Unacceptable Materials (as defined below) placed in the waste material collected by Company from the Service Location, ("Unacceptable Materials Costs").

Waste Material: The "Waste Material" to be collected and disposed of by Company pursuant to this Agreement is Commercial Waste (as such term is defined in Section 16-1000 of the Administrative Code) generated by the Customer. Waste Material does not include, and Customer will not deliver for collection, any dangerous, hazardous or toxic materials such as radioactive materials, explosives, ordnance items, corrosives, oxidizing agents, batteries, or Hazardous Wastes (as such term is defined by the United States Environmental Protection Agency, New York State Department of Environmental Conservation and/or DSNY), ("Unacceptable Materials"). Title to and liability for Unacceptable Materials generated by Customer shall remain with the Customer and Customer agrees to defend, indemnify and hold harmless Company from and against any and all damages, penalties, fines and liabilities, resulting from or arising out of Unacceptable Materials generated by Customer.

Solid Waste Decal: The Customer will post a decal conspicuously on the front of its premises. Company will supply the Customer, free of charge, a decal that complies with all legal requirements.

Liability for Equipment and Ground Surfaces: The Customer shall be liable for the costs to repair or to replace, whichever is less, damaged or destroyed Company equipment resulting from the negligence of the Customer, exclusive of reasonable wear and tear. Damage to equipment includes, but is not limited to, burning a container, bending or denting a container, and breaking off or bending wheels on a container. Customers shall not alter or in any way modify Company equipment. Customer acknowledges that Company shall not be liable for any damages to pavement or driving surfaces on any route reasonably traversed by Company vehicles to perform the services hereunder. Nothing in this Agreement or any amendment limits or exempts Company from liability caused by its negligence or the negligence of any of its agents.

Excused Performance: Company will not be liable for its failure to perform hereunder by reason of the occurrence of events and/or contingencies beyond the control of Company including, but not limited to, strikes, riots, fires, street closures, weather conditions, or other emergency as determined by DSNY. Company shall have the right to modify the days or frequency of service or refuse collection in the event circumstances outside of Company's control arise, such as weather conditions, technical failures outside of the scheduled or routine maintenance of Company's equipment, conditions at the Service Location which restrict or prevent Company from accessing the Service Location, overfilled containers, bags or containers cannot be safely lifted or will not empty after tipping, designated recyclable materials or source separated organic waste with contamination of at least 10 percent, waste material not included in the scope of services, the form or manner of the commercial waste set out by Customer presents a direct health or safety threat to Company employees or to the public, or any other unforeseen or compelling circumstances.

Service Disruption: Without limiting any of Company's rights, should Customer fail to pay any amount due as set forth in this Agreement for Commercial Services, Company may, as set forth in NYC Rules and in its sole and absolute discretion, and without liability, suspend services upon notice to the Customer until all amounts are paid in full or terminate this Agreement immediately upon notification to Customer. Company may suspend or terminate Containerized Roll-Off Services upon 14 days' written notice to the Customer. If Customer fails to pay Company all amounts which become due under this Agreement, or either party fails to perform its obligations in this Agreement, and either party refers such matters to any attorney, or collection agency, the prevailing party is entitled to reasonable attorney's fees and costs incurred as a result of such action.

Notice: Except as otherwise expressly set forth in Local Law 199 (2019) and its implementing rules, Company shall send all written notices required by law to the Customer at the billing address or electronic mail address in this Agreement. Customer shall send all notices to Company in writing by certified mail, return receipt requested, at the mailing address in this Agreement.

Relocation: In the event Customer moves from the Service Location to another location within a commercial waste zone that Company services, this Agreement shall remain in full force and effect and shall be modified to amend the address of the Service Location and the services provided, if necessary, subject to the requirements of the new Service Location, which shall be mutually agreed upon by Customer and Company. This Agreement shall not terminate upon relocation unless Customer moves to a location within a commercial waste zone not serviced by Company. Customer shall provide timely notice to Company of Customer's move and new service location.

Right to Compete: At the end of the Term or upon earlier termination of this Agreement as set forth in this Agreement, Customer may provide Company a right to review and match all bona-fide, firm, written offers received from another designated carter authorized to provide waste collection services in the applicable commercial waste zone, (the "Offer"). Company, as long as it is not in material breach of its current agreement with the Customer, in its sole and absolute discretion, may enter into a new written service agreement with the Customer for the same scope of services and rates in the Offer, exclusive of Additional Fees and Unacceptable Materials Costs which Company may continue to charge. If, within ten (10) days after Company's receipt of the Offer, Company does not enter into the new written service agreement with Customer, Customer may accept the Offer. Nothing in this paragraph shall limit any right, or legal or equitable remedy Company might have in connection with any breach of this Agreement by Customer.

Opportunity to Cure and Dispute Resolution: In the event Customer believes Company has failed to perform its services in accordance with this Agreement or NYC Rules ("Non-Performance Event"), Customer shall provide Company with a 10-day written notice and opportunity to cure the Non-Performance Event. This 10-day period shall begin on the day Company receives the notice. With respect to any dispute among the parties arising from this Agreement, Customer and Company agree to make good faith efforts to informally negotiate and reasonably resolve such dispute. In the event the parties cannot resolve such dispute within 60 days after initiating informal negotiations, either party may then initiate legal action to address the disputed matter provided such action is filed in a court of competent jurisdiction within New York City. This Agreement shall be governed by New York law. If any portion of this Agreement is deemed invalid or unenforceable, then such provision shall be deemed severable from and shall not affect the remainder of this Agreement.

Assignment: This Agreement may not be assigned by Customer without the prior written consent of Company, which consent shall be given or withheld in Company's sole and absolute discretion. Company shall be permitted, without obtaining Customer's consent, to assign this Agreement.

Miscellaneous: This Agreement shall be binding on each party's successors and assigns. This Agreement becomes effective only upon being dated and signed by Company and the Customer (or Customer's authorized representative). Except as otherwise set forth in this Agreement or NYC Rules, any changes to the terms or conditions of this Agreement must be made in writing, dated, and signed by the Customer (or Customer's authorized representative) and Company. This Agreement may be executed and delivered by electronic signatures and those signatures appearing on this Agreement are the same as handwritten signatures for purposes of validity, enforceability and admissibility.