



Supplier has agreed to supply, and Customer has agreed to purchase, the Waste Disposal Services in exchange for the Fee. The parties agree that, by reference to this document, the terms contained herein including the terms contained in the WDA, govern the purchase and supply of Waste Disposal Services (collectively, the “**Agreement**”).

The parties agree in consideration of the mutual promises contained in the Agreement:

1 Definitions and interpretation

(a) In the Agreement:

Adjustment Note includes any document or record treated by the Commissioner of Taxation as an adjustment note or as enabling the claiming of an input tax credit for which an entitlement otherwise arises.

APVMA means the Australian Pesticides and Veterinary Medicines Authority.

Confidential Information means, in relation to a party:

- (1) the existence and terms of the Agreement;
- (2) all its business, commercial, financial, operational, manufacturing, technical, scientific, and research and development information or processes, including (without limitation) business, marketing and product development plans and strategies; business and financial reports, records and data; Customer lists; pricing information; specifications; and product information;
- (3) all its IPR, know-how, trade secrets, ideas and concepts; and
- (4) other information that, by its nature or by the circumstances of its disclosure, is or could reasonably be expected to be regarded as confidential to that party or to any third party with whose consent or approval that party uses such information,

excluding information that is in the public domain, other than due to a breach of any obligation of confidence owed to the party.

Corporations Act means the *Corporations Act 2001* (Cth).

Customer means the party receiving the Waste Disposal Services as specified in the WDA.

Customer's Policies means the relevant policies as at the date of entering into this Agreement and if policies are updated from time, any changes will be notified to Supplier 60 days prior to the changes coming into effect.

Customer's Procedure means the relevant procedures as at the date of entering into this Agreement and if procedures are updated from time, any changes will be notified to Supplier [x] days prior to the changes coming into effect.

EPA means the NSW Environmental Protection Authority or any other applicable state environmental protection authority.

Fee means the fee in respect of the Waste Disposal Services set out in Schedule 1 of the WDA, or as otherwise agreed in writing between the parties.

GST includes any replacement or subsequent similar tax.

GST Act means A New Tax System (Goods and Waste Disposal Services Tax) Act 1999 (Cth).

Insolvency Event means, in respect of a party:

- (1) taking any step or action in connection with the party entering into any composition, arrangement or compromise with its creditors;

- (2) failing to pay its debts when they are due;
- (3) being deemed under the Corporations Act to be insolvent;
- (4) entering liquidation or provisional liquidation;
- (5) having a receiver or similar official appointed to any of its assets;
- (6) ceasing or threatening to cease carrying on business; or
- (7) having an application or order made or resolution passed for its winding up, or in connection with any analogous or substantially similar procedure.

IPR means all industrial and intellectual property rights of any kind including, without limitation, copyright, trademarks, design, moral rights and other proprietary rights.

Law means laws, statutes, regulations, codes and all requirements of government agencies including, without limitation, the EPA and APVMA.

Loss means any damage, loss, liability, claim, action, cost, charge, expense (including reasonable legal fees), outgoing or payment (whether direct or indirect, consequential or incidental).

Related Bodies Corporate has the meaning given in the Corporations Act.

WDA means the waste disposal agreement signed between the parties from time to time which incorporates the terms contained in this document.

Waste Disposal Services means the services set out in Schedule 1 of the WDA, or as otherwise agreed in writing between the parties.

Specifications means the standards and/or specifications set out in Schedule 1 of the WDA, or as otherwise agreed in writing between the parties.

Supplier means the party supplying the Waste Disposal Services as specified in the WDA.

Supplier's Personnel means any of the Supplier's employees, agents, representatives, any subcontractors, and any of the employees, agents and representatives of any subcontractors, involved directly or indirectly in the provision of the Waste Disposal Services.

Tax Invoice includes any document or record treated by the Commissioner of Taxation as a tax invoice or as enabling the claiming of an input tax credit for which an entitlement otherwise arises.

Waste means the materials specified in Schedule 1 of the WDA including, without limitation, all packaging in relation to the materials.

- (b) In the Agreement, headings are only for convenience and do not affect interpretation and, unless the context requires otherwise:
- (1) words in the singular include the plural and vice versa;
 - (2) words of one gender include any gender;
 - (3) all references to dollars are to the legal currency of Australia;
 - (4) no provision of the Agreement will be construed adversely to a party because that party was responsible for the preparation of the Agreement or that provision; and
 - (5) a reference to a clause, party or schedule is a reference to a clause of, and a party and schedule to, the Agreement and a reference to the Agreement includes the schedule.
- (c) Time is of the essence in the provision of the Waste Disposal Services by the Supplier under the Agreement.

2 Performance

2.1 Supply of Waste Disposal Services

- (a) Customer requests the Supplier to provide the Waste Disposal Services and the Supplier agrees to provide the Waste Disposal Services in return for the Fee on the terms and conditions of the Agreement.
- (b) Subject to clause 4, the Fee is inclusive of freight, packing, crating and insurance costs; charges; government taxes; duties; levies; or other imposts payable by Law, in respect of the Waste Disposal Services, unless expressly agreed otherwise by Customer.
- (c) The Supplier must render a Tax Invoice for the Fee after performance of the Waste Disposal Services.
- (d) Customer must pay the Fee for the Waste Disposal Services, after the performance of the Waste Disposal Services, in accordance with the payment terms set out in Schedule 1 of the WDA.
- (e) Customer reserves the right, acting reasonably, at any time prior to the Supplier supplying the Waste Disposal Services to cancel all or any part of an order by giving reasonable notice in writing to the Supplier.

2.2 Standards for performance

In performing its obligations under the Agreement, the Supplier must, and must procure that Supplier's Personnel:

- (a) provide Waste Disposal Services that meet the Specifications;
- (b) provide the Waste Disposal Services at the time specified upon reasonable notice by Customer or, if no time is specified by Customer, in a timely manner;
- (c) comply with all applicable Laws and Customer's Policies, Customer's Procedures and reasonable directions relating to the provision of the Waste Disposal Services, or the Agreement;
- (d) exhibit the level of care, skill, competence, diligence and judgement that may be expected of a professional organisation experienced in providing Waste Disposal Services of the type and complexity of the Waste Disposal Services; and
- (e) provide the Waste Disposal Services in a highly professional, safe and ethical manner.

3 Access to Customer premises

- (a) Customer will give the Supplier reasonable access to Customer's premises where such access is necessary for the Supplier to provide the Waste Disposal Services.
- (b) The Supplier must, and must procure that the Supplier's Personnel, use best endeavours to minimise disruption to business and operations at Customer's premises.
- (c) When accessing Customer's premises the Supplier must, and must take reasonable steps to ensure that the Supplier's Personnel:
 - (1) only use Customer's premises for the sole purpose of performing its obligations under the Agreement;

- (2) comply with all applicable Laws (including, without limitation, environmental and occupational health and safety Laws) and Customer's Policies, Customer's Procedures and reasonable directions relating to the premises; and
- (3) adhere to safe working practices and take reasonable precautions against accidents, harm or damage occurring on or to any premises from any cause.
- (d) The Supplier acknowledges that it is responsible for the acts and omissions of all of Supplier's Personnel while they are on Customer's premises or in connection with the Agreement.

4 GST

- (a) Terms defined in the GST Act have the same meaning in this clause 4, unless provided otherwise.
- (b) If GST is or will be imposed on a supply made under or in connection with the Agreement, the Supplier may, to the extent that the consideration otherwise provided for that supply under the Agreement is not stated to already include an amount in respect of GST on the supply:
 - (1) increase the consideration otherwise provided for that supply under the Agreement by the amount of that GST; or
 - (2) otherwise recover from Customer the amount of that GST.
- (c) The recovery of any amount in respect of GST by the Supplier under the Agreement on a supply is subject to the issuing of the relevant Tax Invoice or Adjustment Note to Customer.
- (d) If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST recovered by the Supplier, as appropriate, the Supplier:
 - (1) may recover from Customer the amount by which the amount of GST on the supply exceeds the amount recovered; and
 - (2) must refund to Customer the amount by which the amount recovered exceeds the amount of GST on the supply.
- (e) The recovery of any amount in respect of GST by Supplier under the Agreement on a supply is subject to the issuing of the relevant Tax Invoice or Adjustment Note to Customer.
- (f) If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST recovered by Supplier, as appropriate, Supplier:
 - (1) may recover from Customer the amount by which the amount of GST on the supply exceeds the amount recovered; and
 - (2) must refund to Customer the amount by which the amount recovered exceeds the amount of GST on the supply.

5 Warranties and Obligations

5.1 Supplier's Representations and Warranties

The Supplier represents and warrants to Customer that:

- (a) the Supplier and the Supplier's Personnel have all licences, permits (including work rights) and other regulatory consents required or necessary to enter into and perform the Agreement;
- (b) all representations made by the Supplier or the Supplier's Personnel to Customer (including any information about the Waste Disposal Services, samples, or any correspondence) are complete and accurate, not misleading or deceptive and may be relied on by Customer in entering into and performing the Agreement; and
- (c) appropriately qualified and trained personnel will provide the Waste Disposal Services.

5.2 Waste

- (a) The Supplier acknowledges and agrees that:
 - (1) the Waste is not suitable for human consumption;
 - (2) the Supplier receives the Waste 'as is', without any warranties, guarantees or conditions of any kind, whether express or implied; and
 - (3) the Supplier uses, disposes of and/or deals with the Waste at its own risk and must rely entirely on its own assessment as to the suitability of the Waste for any use, disposal and/or dealings by the Supplier.
- (b) To the extent permitted by law, Customer expressly disclaims all warranties, written or oral, statutory, express or implied, including any warranty of merchantability, condition, quality, fitness for use, or suitability of the Waste in any respect whatsoever, including any warranty regarding the absence of any defects therein, whether latent or patent; it being understood and agreed that the Waste is being supplied free of charge or for a Fee (as applicable) by Customer to the Supplier in its current condition as of the date of delivery to the Supplier or the date of collection by the Supplier (as applicable).
- (c) Customer shall in no event be liable for any claim whatsoever by or through the Supplier, or any third party, for any issue, defect and/or problem with the Waste which is notified to the Supplier prior to the supply of Waste Disposal Services, whether such claim is based in any form of warranty, contract, tort (including negligence), strict liability or otherwise, and whether for direct, incidental, consequential, exemplary or other damages, except to the extent that any such liability cannot be released or waived under law.

5.3 Supplier's Obligations

The Supplier will, and will procure that the Supplier's Personnel do;

- (a) not use nor cause any third party to use the Waste for human consumption;
- (b) not sell or resupply the Waste under any circumstances without Customer's prior written consent;
- (c) pay for the cost of collecting, shipping or transporting the Waste from Customer's designed pick-up location and the Supplier will assume all responsibility for any injury or property damage arising during the shipping or transportation of the Waste;
- (d) at all times promptly comply with any directions of the EPA and APVMA; and
- (e) not use Customer's name or any trade marks or references related to Customer in connection with the Waste or the use of the Waste, without Customer's prior written consent.

6 Release

To the extent permitted by law, the Supplier, for itself and its successors, assigns, agents, employees and representatives, release and discharge Customer, and each of Customer's former, current and future directors, officers, employees, successors, assigns, affiliates, agents, representatives and insurers, from all each and every claim, demand, cause of action, proceedings, damages (including consequential or indirect damages), loss and expense, including but not limited to attorney's fees and costs, that the Supplier suffers or incurs in any way arising out of, related to, or in connection with the Agreement or the use or possession of the Waste, including any injury, death, loss or damage due to the use or consumption of the Waste, except to the extent that such injury, death, loss or damage is caused or contributed to by any act or omission of the Customer.

7 Indemnity and Insurance**7.1 Indemnity**

Without limiting any of the Supplier's other legal rights, the Supplier indemnifies Customer and its Related Bodies Corporate in respect of any Loss that they suffer arising from, related to or in connection with:

- (a) any breach of or default under the Agreement by the Supplier and/or the Supplier's Personnel;
- (b) any warranty under the Agreement being incorrect or misleading in any way;
- (c) any negligent, reckless or wrongful act or omission of the Supplier and/or the Supplier's Personnel;
- (d) any personal injury, death or property damage caused or contributed to by the Supplier and/or the Supplier's Personnel;
- (e) any breach of Law by the Supplier and/or the Supplier's Personnel; and/or
- (f) any claim, action or proceeding by a third party caused or contributed to by the Supplier and/or the Supplier's Personnel,

except to the extent that the Loss is directly attributable to the negligence or wrongful act or omission of Customer.

7.2 Insurance

- (a) The Supplier must take out and maintain with a financially sound and reputable insurer such insurances as a reasonably prudent person in the position of the Supplier would take out and maintain.
- (b) The Supplier must produce to Customer, upon request, certificates as to currency relating to insurance.

8 Confidential Information

- (a) Each party, and Supplier must procure that Supplier's Personnel, must not use the Confidential Information of the other party for any purpose other than as necessary to exercise its rights and perform its obligations under the Agreement.
- (b) Each party, and Supplier must procure that Supplier's Personnel, must not disclose any Confidential Information of the other party other than:
 - (1) to its employees, officers, representatives, advisers and sub-contractors who need to know such Confidential Information for the purposes of exercising the party's

- rights or performing its obligations under the Agreement and who are under confidentiality obligations comparable to this clause 8; and/or
- (2) as required by Law, the rules of a recognised stock exchange, a court of competent jurisdiction, or any governmental or regulatory authority.
- (c) Each party, and Supplier must procure that Supplier's Personnel, must store all Confidential Information in a way that minimises the risk of unauthorised access.
 - (d) At either party's request, the other party must promptly return to or destroy (and certify the destruction of) the requesting party's Confidential Information.
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9 Termination

- 9.1 Either party may terminate the Agreement at any time without cause by giving the other 30 days' prior written notice. Where a party receives such notice, it must stop work as specified in the notice and take all steps to mitigate any loss suffered or costs incurred by that party as a result of the Agreement being terminated by the other party.
- 9.2 Without limiting Customer's rights at Law, Customer may immediately terminate the Agreement by giving the Supplier written notice, if:
 - (a) the Supplier or the Supplier's Personnel breach a term of the Agreement that is not capable of remedy including, without limitation, clauses 5, 8, 9, 12, 14, 15 and 16;
 - (b) the Supplier or the Supplier's Personnel breach a term of the Agreement that is capable of remedy and fail to remedy the breach within 30 days after receipt of a written breach notice;
 - (c) the Supplier does anything that materially damages or is likely to materially damage the business or reputation of Customer; or
 - (d) an Insolvency Event occurs.
- 9.3 Without limiting the Supplier's rights at Law, the Supplier may immediately terminate the Agreement by giving the Customer written notice, if:
 - (a) Customer breaches a term of the Agreement that is not capable of remedy;
 - (b) Customer breaches a term of the Agreement that is capable of remedy and fail to remedy the breach within 30 days after receipt of a written breach notice;
 - (c) Customer does anything that materially damages or is likely to materially damage the business or reputation of the Supplier; or
 - (d) an Insolvency Event occurs.
- 9.4 The termination or expiry of the Agreement will not prejudice or affect any pre-existing liability or any accrued rights of any party.
- 9.5 On expiry or termination of the Agreement:
 - (a) the parties agree that within 14 days from the date of expiry or termination:
 - (1) the Supplier must refund all Fees paid by Customer for Waste Disposal Services yet to be provided;
 - (2) each party will return (or at the other party's option, destroy and certify the destruction of) any of the other party's property (whether tangible or

intangible including, without limitation, any Confidential Information) in its possession or control;

- (3) on written request, each party will provide the other with written certification of its compliance with clause 9.5(a)(2); and
- (4) the Supplier must take all steps to mitigate any loss suffered or costs incurred by the Supplier as a result of the Agreement being terminated by Customer;
- (5) Customer to pay any of the Supplier's invoices that are due able payable and not subject to a dispute between the parties; and
- (6) A party will only be liable for any reasonable costs (excluding, without limitation, loss of prospective income or profits) unavoidably incurred by either party , which are directly attributable to the termination of this Agreement in accordance with clause 9.1.

10 Dispute Resolution

- (a) If a dispute arises under this agreement that is not settled promptly in the ordinary course of business, a party may deliver written notice to the other party of the matters in dispute, including that party's position and the relevant facts and circumstances (Dispute Notice).
- (b) Promptly after the Dispute Notice, the parties must meet for the purpose of resolving the dispute via good faith discussions and negotiations.
- (c) If the dispute is not resolved within 10 Business Days after the meeting pursuant to clause 10(b), then either party may call a meeting between a member of each of their senior management, who must promptly meet for the purpose of resolving the dispute via good faith discussions and negotiations, and/or to mutually agree on an alternative dispute resolution process to be undertaken by the parties in relation to the dispute.
- (d) If the dispute is not resolved within 10 Business Days after the meeting pursuant to clause 10(c), then either party may submit the dispute to independent arbitration in accordance with, and subject to, the then current Resolution Institute Arbitration Rules. Unless the parties agree upon an arbitrator, either party may request a nomination from the Chair of the Resolution Institute.
- (e) Neither party may commence litigation, other than urgent interlocutory relief, until the procedures in clauses 10(a) to 10(d) have been complied with.
- (f) Except where clearly prevented by the area in dispute, the Supplier must continue to perform its obligations under this agreement notwithstanding the existence of any dispute.

11 Relationship of Parties

Nothing in the Agreement:

- (a) constitutes a partnership or a joint venture between the Supplier and Customer;
- (b) authorises a party to:
 - (1) act or hold itself out as an agent or representative of the other party; or
 - (2) assume or create any obligations on behalf of the other party.

12 Anti-Bribery

- (a) The Supplier must comply with all applicable Laws and Customer Policies relating to anti-bribery and anti-corruption.
- (b) The Supplier must promptly report to Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the Agreement.

13 Modern Slavery

- (a) The Supplier must, and must procure that each of its sub-suppliers (if any):
 - (1) comply with all applicable Laws and Customer Policies relating to modern slavery or human trafficking, including but not limited to the Modern Slavery Act 2018 (Cth); and
 - (2) take reasonable steps to ensure that there is no modern slavery or human trafficking in any part of their business or supply chains.
- (b) The Supplier represents and warrants that the Supplier has not, nor its officers, employees or others associated with it, been convicted or investigated for modern slavery or human trafficking offences.
- (c) The Supplier must promptly report to Customer any actual or suspected slavery or human trafficking in a supply chain in connection with the Agreement.
- (d) The Supplier must maintain complete records evidencing its compliance with this clause 15 and grants Customer the right to audit the Supplier and each of its sub-suppliers (if any) for compliance with this clause 15.

14 Privacy

Each party must:

- (a) comply with all Laws and Customer Policies relating to privacy or personal information including but not limited to the Privacy Act 1988 (Cth);
- (b) only collect or use personal information for the purpose of fulfilling its obligations under the Agreement;
- (c) ensure that personal information held by it is protected against misuse, interference, loss, unauthorised access, modification or disclosure; and
- (d) promptly report to, and reasonably cooperate with, the other party regarding any actual or suspected breach of this clause 4.

15 Customer Related Bodies Corporate

- (a) The Supplier will provide the Waste Disposal Services to Customer, however, the Supplier acknowledges and agrees that Customer's Related Bodies Corporate may make use of and enjoy the benefit of the Waste Disposal Services and Customer will benefit from the Agreement as though references to "Customer" in the Agreement (other than in this clause 17) were references to "Customer's Related Bodies Corporate".
- (b) The Supplier agrees that all Losses suffered or incurred by Customer's Related Bodies Corporate in connection with the Agreement (**Group Losses**) are deemed to be suffered or incurred by Customer. Customer may exercise all rights and remedies under the

Agreement or at law in respect of Group Losses as if those Group Losses had been suffered or incurred by Customer directly.

- (c) Without limiting this clause 17, the Supplier agrees that any indemnity given by the Supplier under the Agreement is given in favour of Customer and each of Customer's Related Bodies Corporate in respect of any Losses suffered or incurred by them respectively. Customer accepts the benefit of this indemnity as agent for each of Customer's Related Bodies Corporate.

16 General

16.1 Notices

- (a) A notice under the Agreement must be in writing and sent to the address set above or notified to the other party from time to time.
- (b) A notice is regarded as given by the sender and received by the addressee:
 - (1) if delivered in person, when delivered to the addressee;
 - (2) if posted, 3 Business Days from the date of posting;
 - (3) if emailed, when transmitted to the addressee,but if delivery or receipt is on a day which is not a Business Day, it is regarded as given on the next Business Day.

16.2 Subcontracting and assignment

- (a) The parties agree that Customer has selected the Supplier due to, in part, the Supplier's specialisation and capability to perform the Services and that the Supplier has complied with Customer's procurement requirements including, without limitation, safety, modern slavery and ethical supplier requirements. The Supplier must not subcontract any part or all of its obligations, or assign part or all of the Agreement, without Customer's prior written consent, which is not to be unreasonably withheld.
- (b) Any subcontractor of the Supplier will be considered the agent and representative of the Supplier and no subcontracting or assignment will relieve the Supplier of its obligations under the Agreement.
- (c) Customer may assign or novate the Agreement or any right, benefit or interest under the Agreement to its Related Body Corporate and, upon Customer's request, the Supplier must promptly execute all documents required to give effect to any such assignment or novation.

16.3 Governing law and jurisdiction

The Agreement is governed by the laws of New South Wales and each party irrevocably submits to the nonexclusive jurisdiction of the courts of New South Wales.

16.4 Set off or withholding

Customer may set off, deduct or withhold from moneys due to the Supplier any money due or claimed to be due from the Supplier to Customer whether under the Agreement or otherwise.

16.5 Severance

If any part of the Agreement is invalid or unenforceable in any jurisdiction, it is to be read down or severed to the extent of the invalidity or unenforceability for that jurisdiction, and the remainder of the Agreement will remain in full force and effect.

16.6 Waiver

- (a) No waiver is effective unless it is in writing and signed by the party granting it.
- (b) No failure or delay in exercising a right or remedy under the Agreement will operate as a waiver, or prevent the further exercise of that or any other right or remedy.
- (c) No single or partial exercise of a right or remedy under the Agreement prevents a further exercise of that or of any other right or remedy.

16.7 Variation

The Agreement may only be varied by written agreement signed by the parties.

16.8 Survival

The provisions of the Agreement that by their nature or otherwise reasonably should survive termination or expiry of the Agreement, including without limitation clauses 5.2, 5.3, 6, 7, 8, 9, 12, 13, 16 and 18.8, shall remain in full force and effect after expiration or termination.

16.9 Counterparts

The Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16.10 Entire agreement

The Agreement replaces all previous agreements between the parties concerning its subject matter and contains the entire agreement between the parties.

16.11 Costs

- (a) The parties will bear their own costs and expenses incurred in connection with the preparation, negotiation and execution of the Agreement.
- (b) Any action to be taken by Customer in performing its obligations under the Agreement must be taken at its own cost and expense, unless otherwise provided in the Agreement.

16.12 Equipment

Supplier agrees to comply with all of Customer's Policies related to any equipment that is used to deliver the Goods including without limitation pallets and pallets, as updated from time to time.