

**GREATER SHEPPARTON**



**CITY COUNCIL**

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**AGREEMENT**

for use of

**COSGROVE LANDFILL**

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**THIS AGREEMENT** is made on the date stated in the Schedule to this Agreement.

**BETWEEN**            **GREATER SHEPPARTON CITY COUNCIL**  
having its municipal office at 90 Welsford Street,  
Shepparton, Victoria  
(**"the Council"**)

**AND**                    the **party named in the Schedule to this Agreement**  
(**"the Customer"**)

## **RECITALS**

- A            The Customer has requested the Council to accept Waste at the Landfill.
- B            The Council has agreed to accept Waste from the Customer at the Landfill strictly on the terms set out in this Agreement.

## **IT IS AGREED BETWEEN THE PARTIES THAT:**

### **1**            **Definitions**

In this Agreement, the following terms and words shall have the meanings indicated, unless inconsistent with the context:

**"Prescribed Waste"** means -

- 1.1.        Category C contaminated soil as specified in EPA Publication 448.2, Classification of Wastes 2007; and
- 1.2.        foundry slag and sand that has been classified as Category C waste, as specified in EPA Publication 996, Guidelines for Hazard Classification of Solid Prescribed Industrial Wastes, 2005 -

which may be deposited at the Landfill in accordance with all applicable laws;

**"Act"** means the *Environment Protection Act 1970*;

**"Authorised Officer"** means the Director – Sustainable Development of the Council or any other person appointed from time to time by the Council to act as its Authorised Officer for the purposes of this Agreement;

**"Customer's Staff"** means the Customer (if the Customer is a natural person), officers of the Customer, employees of the Customer, any sub-contractor to the Customer and any employees of sub-contractors to the Customer;

**"Landfill"** means the Cosgrove Landfill located at Lemnos Cosgrove Road, Cosgrove;

**"Local Law"** means any local law of the Council;

**"NATA"** means the National Association of Testing Authorities, Australia and any successor to that body;

**“Unacceptable Material”** means soluble chemical waste, hazardous wastes, liquid wastes, wastes prescribed under the *Environment Protection (Prescribed Waste) Regulations 1998* (other than Prescribed Waste) and any other waste specified by the Authorised Officer for this purpose from time to time; and

**“Waste”** means putrescible waste (waste which can decompose by bacterial action), solid inert waste (hard waste and dry vegetative material which has negligible activity or effect on the environment), pneumatic automotive tyres shredded into pieces less than 250mm in all dimensions, asbestos waste of domestic origin and Prescribed Waste, but does not include any Unacceptable Material.

## **2 Deposit of Waste**

The Customer may deposit Waste at the Landfill, but only on the terms set out in this Agreement.

## **3 Use of Landfill**

The Customer must:

- 3.1 ensure that the Customer’s Staff properly secure all Waste on vehicles travelling to the Landfill;
- 3.2 ensure that the Customer’s Staff immediately collect and remove any Waste which falls from a vehicle travelling to the Landfill;
- 3.3 ensure that the Customer’s Staff obey any conditions for use of the Landfill issued by the Council from time to time;
- 3.4 ensure that the Customer’s Staff obey the requirements specified on any sign at the Landfill;
- 3.5 ensure that the Customer’s Staff obey all directions given by the Council’s staff concerning the use of the Landfill;
- 3.6 ensure that the Customer’s Staff only deposit Waste at the Landfill and do not deposit any Unacceptable Material at the Landfill;
- 3.7 ensure that any Waste of a kind which would be capable of being blown away by winds of the strength ordinarily encountered at the Landfill in the course of a year (including, without limitation, any paper or cardboard) is secured in any manner necessary to ensure that it will not be so blown away when it is deposited at the Landfill;
- 3.8 ensure that the Customer’s Staff identify and take all necessary precautions to protect the health and safety of all persons who may be present at the Landfill, including the Customer’s Staff, the Council’s staff and other users of the Landfill; and
- 3.9 on the same day as it occurs, notify the Council’s staff at the Landfill or the Council of any –

- 3.9.1 personal injury

3.9.2 property damage; or

3.9.3 incident which creates a significant risk of personal injury or property damage -

which occurs at the Landfill.

#### 4 Access Card

4.1 The Council will issue an electronic access card ("**Access Card**") to the Customer for use at the Landfill. The Council may, at its discretion, issue further Access Cards to the Customer.

1.2 The Customer is responsible for the care and custody of each Access Card issued to the Customer.

1.3 If an Access Card is lost, stolen or damaged, the Council will only replace an Access Card for a fee of \$30

1.4 Each Access Card held by the Customer must be surrendered to the Council on demand

1.5 The Customer must notify the Council in writing if an Access Card issued to the Customer is to be used by another party. Such notification will not, however, relieve the Customer of any obligation under this Agreement with respect to the Access Card or the use of the Access Card.

1.6 The Customer's Staff may only deposit Waste at the Landfill if they –

4.1.1 use an Access Card to obtain entry to and exit from the weighbridge at the Landfill; and

4.1.2 obey any conditions of use for Access Cards issued by the Council from time to time -

unless directed otherwise by the Council's staff.

#### 5 To Cease Use of the Landfill

5.1 The Authorised Officer may, by written notice, direct the Customer to stop depositing Waste at the Landfill either -

5.1.1 immediately; or

5.1.2 from a time specified in the notice -

for any reasonable reason.

The notice may require the Customer to stop depositing Waste:

5.1.3 for a specified length of time; or

5.1.4 indefinitely.

5.2 The Customer must stop depositing Waste under this Agreement at the time required by any notice under clause 5.1.

5.3 The Customer must not resume depositing Waste at the Landfill under this Agreement until the expiry of the period, if any, specified in the notice or, if no period is specified, when the Authorised Officer notifies the Customer in writing that it may do so.

## **6 To Indemnify the Council**

6.1 The Customer must indemnify, keep indemnified and hold harmless the Council against all damages, proceedings, prosecutions, losses, penalties, costs and expenses (including, without limitation, all legal costs on a full indemnity basis and all indirect or consequential losses) whatsoever suffered or incurred by the Council as a result of:

6.1.1 any deposit of Waste or other matter at the Landfill;

6.1.2 any act or omission of the Customer's Staff at the Landfill;  
or

6.1.3 any breach by the Customer of its obligations under this Agreement (including, without limitation, the cost of removing any Unacceptable Material from the Landfill).

The Customer will not be liable for the matters referred to in clause 6.1 to the extent they are suffered or brought about as a reason of negligence of the Council or the Council's failure to comply with any of its obligations under this Agreement.

6.2 The Customer must not bring any proceedings or make any demand against the Council in respect of any damage, loss, cost, or expense of any kind whatsoever suffered or incurred by the Customer, whether directly or indirectly as a result of:

6.2.1 the Customer depositing Waste at the Landfill under this Agreement; or

6.2.2 the Council requiring the Customer to stop depositing Waste at the Landfill under clause 5.1.

6.3 The Customer –

6.3.1 releases the Council, and the Council's employees and contractors from; and

6.3.2 must indemnify, keep indemnified and hold harmless the Council, and all employees of and contractors to the Council, against -

any action, claim or liability arising from any personal injury or property damage suffered by -

6.3.3 the Customer's Staff at, or in connection with, the Landfill;  
or

6.3.4 any third party which is caused or contributed to by the Customer's staff -

except to the extent that such action, claim or liability is brought about by the negligence of the Council or the Council's failure to comply with any of its obligations under this Agreement.

7 Prescribed Waste - Ongoing Deposit

7.1 If the Customer wishes to deposit **Prescribed Waste** at the Landfill on an ongoing basis, the Customer must –

7.1.1 prior to depositing any **Prescribed Waste** at the Landfill;

7.1.2 every six (6) months after the date of this Agreement; and

7.1.3 whenever directed to do so by the Authorised Officer

at its own expense, arrange the analysis of each type of material which it deposits or proposes to deposit at the Landfill in order to determine whether the material is **Prescribed Waste**.

7.2 Each analysis must be carried out by a laboratory certified by NATA. If an analysis discloses that any waste tested is Unacceptable Material, the Customer must not deposit any waste at the Landfill until such time as the Customer demonstrates, to the satisfaction of the Council, that the waste is **Prescribed Waste**.

7.3 Before undertaking any analysis in accordance with clause **Error! Reference source not found.**, the Customer must notify the Authorised Officer. If the Authorised Officer wishes, he or she may select the sample for analysis. The Customer must ensure that a copy of the results of any analysis are sent directly to the Council by the testing body.

7.4 The Customer must not deposit waste at the Landfill for the first time under this clause, until the Council has received a copy of an analysis demonstrating that the waste is **Prescribed Waste**.

7.5 The Customer warrants that any waste which it deposits at the Landfill in accordance with clause **Error! Reference source not found.** will be

7.5.1 **Prescribed Waste**; and

7.5.2 of the same chemical composition and from the same source as the sample most recently tested under clause **Error! Reference source not found.**

unless agreed otherwise in writing, by the Council.

7.6 If directed by the Authorised Officer, the Customer must suspend the deposit of waste at the Landfill under this clause until any analysis conducted at the direction of the Authorised Officer under clause **Error! Reference source not found.** demonstrates, to the satisfaction of the Authorised Officer, the Customer's compliance with its obligations under clause 7.

## 8 Prescribed Waste - One Off Deposit

If the Customer wishes to deposit **Prescribed Waste** at the Landfill otherwise than in accordance with clause 7, the Customer must, at its expense:

8.1 arrange an analysis of the waste which it proposes to deposit by a laboratory certified by NATA to confirm that the waste is **Prescribed Waste**

8.2 before undertaking an analysis under clause 8.1, notify the Authorised Officer and permit the Authorised Officer, if he or she so wishes, to select the sample for analysis;

8.3 ensure that a copy of the results of the analysis is sent directly to the Council by the testing body;

8.4 not deposit any waste which is subject to analysis under this clause at the Landfill until the analysis results have confirmed that the waste is **Prescribed Waste**; and

8.5 All acceptable waste must be accompanied by properly completed EPA Waste Transport Certificates

## 9 To Pay Charges

9.1 The Council will invoice the Customer monthly for the quantity of Waste deposited at the Landfill by the Customer in the month to which the invoice pertains.

9.2 The Customer must pay to the Council the amount specified in each invoice within 30 days of the date of the invoice.



- 9.3 The amount payable by the Customer under clause 9.2 must be calculated by multiplying the quantity of Waste deposited by the Customer by the then current rate set by the Council for the deposit of Waste. The Council may alter such rate from time to time at its absolute discretion. The Council must give notice to the Customer of any change in the rate.
- 9.4 For the purposes of clause 9.3, the quantity of Waste deposited by the Customer at the Landfill will be determined by the Council from the total amount of Waste deposited:
- 9.4.1 By persons using Access Cards issued to the Customer (whether or not authorised by the Customer);
  - 9.4.2 by the Customer's Staff, as recorded by any staff of the Council manually operating the weighbridge at the Landfill; or
  - 9.4.3 by the Customer's Staff, as determined by staff of the Council making a visual assessment of the volume of the Waste (if the weighbridge is not in operation).

Any such determination by the Council will be final and conclusive.

The weight of Waste being deposited from a vehicle will be ordinarily determined by subtracting the gross weight of the vehicle (as measured by the weighbridge at the Landfill) when departing the Landfill from the gross weight of the vehicle (as measured by the weighbridge at the Landfill) when arriving at the Landfill. If the gross weight of any vehicle is not measured at the weighbridge on departure from the Landfill, the weight of Waste deposited will be assumed to be equivalent to the gross weight of the vehicle on entry to the Landfill.

- 9.5 If any moneys payable to the Council by the Customer remain outstanding after the due date, the Customer must pay interest on the moneys at the rate prescribed for the purposes of the *Penalty Interest Rates Act 1983*.

## 10 Recording

Should the weighbridge at the Landfill fail to record any information or such information subsequently be lost for any reason, the Council will not be liable to the Customer in any way.

## 11 Termination

- 11.1 This Agreement will terminate:
- 11.1.1 on the expiration of 30 days written notice by the Council to the Customer; or
  - 11.1.2 on any date nominated by the Council, if any analysis under clause **Error! Reference source not found.** discloses that any sample of material is Unacceptable

Material and the Council decides to terminate this Agreement; or

11.1.3 on any date nominated by the Council, if the Customer commits a breach of any clause of this Agreement and fails to remedy such breach within any period nominated by the Authorised Officer after receiving written notice of the breach from the Authorised Officer.

11.2 Whenever the Agreement terminates, the Customer must, forthwith and at its cost:

11.2.1 stop depositing Waste at the Landfill; and

11.2.2 return all Access Cards issued to the Customer to the Council.

## 12 Assignment

The Customer must not assign any of its rights under this Agreement without the prior written consent of the Council. The Council's consent under this clause may be given or withheld at its absolute discretion, or given subject to such conditions as it considers appropriate.

## 13 Right to On-Sell

The Customer acknowledges the absolute right and discretion of the Council to -

13.1 utilise in any way it thinks fit; or

13.2 sell on such terms as it considers appropriate -

any -

13.3 Waste deposited at the Landfill, except as provided in the Schedule; and

13.4 gas or matter generated from the decomposition of Waste at the Landfill

and no compensation shall be payable to the Customer for any such utilisation or sale.

## 14 Interpretation

In this Agreement, unless inconsistent with the context:

14.1 a reference to any legislation includes any subordinate legislation and its consolidations, amendments, re-enactments, regulations, policies or replacements;

14.2 the singular includes the plural and vice versa;

14.3 the word "person" includes a firm, body corporate, partnership, joint venture, unincorporated association and public authority;

14.4 headings and underlinings are for convenience only and do not affect interpretation;

- 14.5 a reference to a gender includes a reference to each other gender;
- 14.6 where a term is assigned a particular meaning, other grammatical forms of that term have a corresponding meaning;
- 14.7 a reference to a party includes that party and its successors, permitted assigns, receivers, receivers and managers, liquidators and administrators; and
- 14.8 a reference to any document includes a reference to that document as amended, rectified or replaced from time to time and to any document so amending, rectifying or replacing the document.

15 Whole Understanding

This Agreement constitutes the whole understanding between the parties and embodies all terms and conditions with respect to the deposit of Waste by the Customer at the Landfill and all other aspects of the transaction. All previous negotiations and understandings between the parties on this subject matter shall cease to have effect from the date of this Agreement.

16 Governing Law

The law of the State of Victoria governs this Agreement and any legal proceedings or arbitration under this Agreement.

17 Authorised Officer

The Authorised Officer may execute or perform any powers, duties or functions of the Council under this Agreement.

**EXECUTED** as an Agreement.

**SIGNED** for and on behalf of the  
**GREATER SHEPPARTON CITY  
COUNCIL** by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**SIGNED** for and on behalf of the Customer  
by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**CREDIT APPLICATION – COSGROVE LANDFILL**

Owner of Business: \_\_\_\_\_

Trading Name of Customer: \_\_\_\_\_

ABN No: \_\_\_\_\_

Postal Address \_\_\_\_\_

Delivery Address: \_\_\_\_\_

Telephone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Email: \_\_\_\_\_

Type of Entity:      Public Company                       Private Company   
                                 Sole Trade     Partnership

Other: \_\_\_\_\_

**TRADE REFERENCES (MUST BE SUPPLIED)**

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

I/We agree that Greater Shepparton City Council (the Council) may obtain a commercial and/or consumer credit report on the applicant and/or any directors or principal thereof containing information about me/us from a credit reporting agency for the purpose of assessing my/our application for commercial credit.

I agree with the payment terms of 30 days from date of invoice

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

**SUBJECT TO TERMS & CONDITIONS  
TERMS ARE STRICTLY 30 DAYS.**

## **TERMS AND CONDITIONS**

It is agreed that:

- All information is true and correct
- Should any changes take place affecting the legal entity, structure or management control of the applicant, company, partnership or sole trader, then Greater Shepparton City Council (the Council) will be notified accordingly.
- The terms of payment will be strictly adhered to. Nett 30 days.
- Greater Shepparton City Council may withdraw credit facilities at their discretion without prior notice.
- The Terms and Conditions are considered to be incorporated in this application form.
- Greater Shepparton City Council may require provision of guarantees or securities before approving this account.
- The approval of credit may be varied at any time without reference to the account holder.
- Should any dispute arise regarding the operation of this account, jurisdiction will be in Victoria.

## **PAYMENT TERMS**

Terms of payment are 30 days from date of invoice. Failure by the Customer to comply with the Greater Shepparton City Council's terms of payment shall entitle the Council's to suspend any further orders, requests or services placed and accepted by the Council until the outstanding amounts have been paid. However the Council reserves the right not to supply the customer any further or to convert the customer to a cash transaction only. Should trading terms be exceeded by the customer all costs associated with the recovery of outstanding amounts including solicitors fees and any out of pocket expenses including debt collection commissions will be the liability of the customer.

## **PRICE**

Prices appearing in any of Greater Shepparton City Council's price lists shall not bind the Council until the order, request or booking has been placed by the customer has been accepted by the Council at the price stated therein by the Council to the Customer. All prices are subject to change without notice except that prices will remain firm for order, requests or Services already placed and accepted by the Council. Any discounts, settlement allowances or other rebates must be specifically agreed to by the Greater Shepparton City Council to be valid or effective.

## **PRECEDENCE OF TRADING TERMS**

Orders, requests or Services will not be accepted otherwise than subject to these terms and conditions. Any indulgence or extension of time shall in no way be construed as a waiver by the Council, to strictly enforce its rights as set out herein.

These terms and conditions shall be construed in accordance with and be governed by the laws of the State in which the Council's in situated.

Except in respect of provisions implied by statute, the provisions set out herein contain the whole of the terms and conditions, express or implied, made between the Customer and the Council and no variation or inclusion of any further provisions shall be binding upon the Council unless approved by the Council in writing. The customer specifically acknowledges and agrees that it shall be liable to the Council on demand for all costs incurred by the Council in recovery of such amounts, including all legal costs on a solicitor and own client scale.

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Declaration, Indemnity & Guarantee

(To be signed by Directors, Owners & Partners)

To comply with the Privacy Act of 2000, I/we the undersigned acknowledge that Greater Shepparton City Council has informed me/us in accordance with the Privacy Act of 2000, that certain items of personal information about me/us kept on a credit information file may be disclosed to a credit reporting agency.

Furthermore, I/we agree in accordance with the provisions of the Privacy Act 2000 that disclosures by credit reporting agencies, and/or use by Greater Shepparton City Council may occur for the purpose of assessing this credit application for commercial credit.

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

SCHEDULE

Debtor Number: \_\_\_\_\_ Card Number: \_\_\_\_\_

Agreement Date: \_\_\_\_\_

Customer Name (please print): \_\_\_\_\_

Business Name: \_\_\_\_\_

Trading Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

ABN Number: \_\_\_\_\_

ACN Number: \_\_\_\_\_

Authorised Person (please print): \_\_\_\_\_

Signed (authorised person): \_\_\_\_\_

Witnessed by: \_\_\_\_\_

Conditions referred to in clause 13.3: \_\_\_\_\_

**NB: Greater Shepparton City Council may run a credit check using the above details**