

By signing the Order Form, or accepting Service from AES, the Customer agrees to and is bound by these Terms and Conditions. AES reserves the right to amend these Terms and Conditions from time to time. Any amendment to these Terms and Conditions will take effect and will bind the Customer twenty-one days after notice of the amendment has been sent to the Customer. A copy of the most recent Terms and Conditions is available on request in writing to AES or on [www.aesirl.ie](http://www.aesirl.ie).

## 1. DEFINITIONS

In these Terms and Conditions:-

**“Address”** shall mean the collection address where Materials are to be collected by AES and which is specified by the Customer either in the Sign-Up Form, in writing by email or verbally by telephone;

**“AES”** means Advanced Environmental Solutions (Ireland) Limited, registered in Ireland no. 224173, whose registered office is at Bord na Móna Offices, Main Street, Newbridge, Co. Kildare;

**“Applicable Data Protection Law”** means:

- (i) The Data Protection Act 2018;
- (ii) the Irish Data Protection Acts 1988 and 2003;
- (iii) the European Communities (Electronic Communications Networks & Services) (Privacy & Electronic Communications) Regulations 2011;
- (iv) the EU Data Protection Directive 95/46/EC;
- (v) the EU ePrivacy Directive 2002/58/EC (as amended) (the “ePrivacy Directive”);
- (vi) the General Data Protection Regulation (Regulation (EU) 2016/679) (“GDPR”); and
- (vii) any successor or replacement to the laws set out above and the successor to the ePrivacy Directive;
- (viii) all other industry guidelines (whether statutory or non-statutory) or applicable codes of practice and guidance notes issued from time to time by the Irish Data Protection Commissioner relating to the processing of Personal Data or privacy.

**“Billing Period”** shall mean the period of time from the Commencement Date to the 30<sup>th</sup> of June or the 31<sup>st</sup> of December of any calendar year, as appropriate;

**“Cancellation Fee”** shall mean a fee of €50 charged by AES to the Customer who cancels the Services prior to the expiry of the term;

**“Cooling-Off Period”** shall mean the period of fourteen (14) working days from the date on which the Customer has procured the Services from AES;

**“Commencement Date”** shall be the period of seven (7) working days from the date on which the Customer has signed the Order Form or has placed the request for the Services verbally by telephone with a representative of AES;

**“Confirmation Letter”** shall mean written confirmation whether by letter or email confirming Customer details and other particulars in relation to the Services which is sent from AES to the Customer following their request for Services;

**“Contract”** means the Sign-Up Form and/or the Confirmation Letter together with these Terms and Conditions;

**“Customer”** means any individual, person, firm, company or unincorporated association, to whom AES is providing the Services;

**“Equipment”** means the equipment provided by or on behalf of AES to the Customer for the collection of the appropriate Materials, or any substituted

equipment for such equipment, and any additional equipment supplied for such purposes from time to time;

**“Group”** shall consist of Bord na Móna Plc and all of its subsidiaries including Advanced Environmental Solutions (Ireland) Limited;

**“Lift Charge”** means price per lift for Customers general waste, recycling, organic and glass bin;

**“Materials”** shall mean the collective term used for the organic materials, recyclable materials, glass materials and Waste Materials indicated as being suitable for disposal in the appropriate Equipment and is destined for recycling, recovery or disposal as appropriate;

**“My Account On-Line”** means Customer personalised account details summarising all waste usage and charges accessible through the AES website [www.aesirl.ie](http://www.aesirl.ie);

**“Sign-Up Form”** means the online sign-up form which includes the Customer’s details and other particulars in the form prescribed by AES;

**“Pay by Weight”** refers to the charges based on the amount of kilos per lift. Any weights under two (2) kilo shall be rounded up and charged at the same rate as a two (2) kilo lift;

**“Personal Data”** is any information relating to an identified or identifiable natural person (the **“Data Subject”**); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

**“Price”** means price per Customer inclusive of Service Charge, Weight Charge, Lift Charge, Surcharge or any additional charges depending on Customer Service type indicated in the Payment Request Document or as indicated to the Customer in writing;

**“Request for Payment Document”** means the document given or dispatched to the Customer detailing the Equipment, the Term, the Price, the Service Charge, the Weight Charge and if a Customer is a “Lift Charge” Customer further fee information will be provided in a separate document and is also available on the AES website ([www.aesirl.ie](http://www.aesirl.ie) under “prices and plans”);

**“Route”** shall mean a route on which AES regularly operates its services to customers and is willing to provide the Services.

**“Services”** means:-

- (i) the supply of the Equipment for use by the Customer at the Address;
- (ii) the collection and disposal of the Materials; and
- (iii) any additional services expressly agreed in the Order Form or Confirmation Letter;

**“Service Charge”** will be included in the Price means the fee payable either bi-annually or annually, by the Customer to AES for the Services provided;

**“Surcharge”** shall mean additional charges where applicable for filling the Equipment above allotted capacity that will be communicated to customer in the Confirmation letter.

**“Term”** shall mean the period of time from the Commencement Date up to the next Billing Period;

**“Termination Right”** shall mean the right of AES to terminate the Contract with immediate effect where a Customer is in material breach of the Terms and Conditions;

**“Terms and Conditions”** means these terms and conditions of service and any amendments, alterations or revisions made to them after the date hereof;

**“Weight Charges”** means the price per kilo of waste per bin for general, recyclable, organic and glass waste material;

**“Waste Materials”** shall mean all waste material suitable for disposal in the appropriate AES’ Equipment (but excluding recyclable materials, organic materials and glass materials) and shall not include hazardous or toxic waste, unless otherwise agreed in writing in advance with AES, (including but not limited to: liquid waste, car tyres, paint tins, plasterboard, animals, electrical appliances, batteries, carbon wastes, building materials and florescent bulbs) and produced at the Address and placed in the appropriate Equipment provided for this purpose by or on behalf of AES and destined for disposal.

## **2. SUPPLY OF SERVICES**

**2.1** AES agrees to provide the Services set out in the Sign-Up Form and/or Confirmation Letter in a proper and efficient manner.

**2.2** Notwithstanding the provisions of Clause 2.1, AES shall have the right to make reasonable changes to times and dates for collection of Materials to meet operational and regulatory requirements. Where possible, AES shall give prior notification of such changes to the Customer and no claim shall lie against AES by the Customer in this respect.

**2.3** If the Service is not carried out on the day specified, AES reserves the right to reschedule the visit to the next reasonable opportunity for such Service and no claim shall lie against AES by the Customer in this respect.

**2.4** AES has the right to sub-contract the provision of any of the Services.

**2.5** Notwithstanding the provisions of Clause 4.1.6, AES shall repair damage caused to the Equipment through reasonable wear and tear.

## **3. DELIVERY OF EQUIPMENT AND RISK**

**3.1** AES shall, so far as practicable, notify the approximate date of delivery of the Equipment (if any). Unless otherwise agreed with the Customer, AES shall effect delivery of the Equipment at the Address.

**3.2** In all circumstances, delivery shall be deemed to take place when the Equipment comes within the possession or control (actual or constructive) of the Customer. Risk in the Equipment shall pass to the Customer immediately upon delivery of the Equipment to the Customer, notwithstanding any failure by the Customer to endorse their acceptance. AES shall not have any responsibility in respect of the safety of the Equipment following delivery of the Equipment despite title not having passed to the Customer. Without prejudice to clause 8.1 the Customer hereby indemnifies AES against any property and personal injury damage occurring to a 3<sup>rd</sup> party due to their failure to reasonably keep/treat/use the equipment in a reasonably safe manner.

**3.3** Any Equipment delivered to the Customer, or in the possession of the Customer, will be the responsibility of the Customer and the Customer will be liable to take reasonable care of the Equipment, including the RFID Chip fitted on the Equipment. The Customer shall be liable for any damage (reasonable wear and tear excepted) however caused to the RFID Chip arising from the attempted removal of the RFID Chip, loss, neglect, or default caused by the Customer and/or the Customer agents.

**3.4** AES at all times reserves the right to refuse delivery of Equipment and/or to provide or continue to provide the Services to any Address that is not or is removed from the Route and/or is deemed inaccessible for AES’ collection vehicles and/or in the opinion of AES, a danger or risk will be created thereby, being in particular, a risk of danger or injury to third parties.

## **4. OBLIGATIONS OF THE CUSTOMER**

The Customer shall ensure that:

**4.1.1** when they want the Equipment to be emptied the Equipment is left in an accessible and safe place in advance of the collection date, as set out in the collection calendar provided by AES from time to time;

**4.1.2** all Materials to be collected shall be deposited in the appropriate Equipment (i.e only recyclable materials should be deposited in the Equipment for recyclable materials);

**4.1.3** any Materials that have the potential to be carried by wind must be covered or secured within the Equipment;

**4.1.4** the Equipment is not filled beyond the relevant weight restriction for the relevant Equipment, the relevant weight restrictions are:

Equipment Size	Maximum Weight Capacity
80Ltr	32kgs
120Ltr	48kgs
140Ltr	56kgs
240Ltr	96kgs
360Ltr	144kgs

**4.1.5** the Equipment is not filled above the level load permitted by the Equipment, such that the lid cannot close;

**4.1.6** they take all reasonable care of the Equipment while in their custody. The Customer shall be liable for any damage howsoever caused to or by the Equipment arising from the neglect or default of the Customer or their agents;

**4.1.7** Materials are not compacted into the Equipment with the aid of mechanical pneumatic, (or any other), compaction devices for the avoidance of doubt, AES reserves the right to charge the Customer for any damage caused to the Equipment by the Customer's use of a mechanical pneumatic, (or any other), compaction devices to fill the Equipment;

**4.1.8** the Equipment is kept in a safe place, away from third party interference;

**4.1.9** there are no names, notices or labels affixed to the Equipment; and

**4.2** For the avoidance of doubt, AES shall not be obliged to collect Equipment that is overweight, overfull, left out for collection on the incorrect collection date, left out for collection in an inaccessible location and/or Materials not contained within the appropriate Equipment. The decision of AES in this respect shall be final.

**4.3** Customers shall permit AES reasonable access to their property or premises to enable AES to carry out the Services, in accordance with these Terms and Conditions.

## **5. FORCE MAJEURE**

**5.1** Should AES be delayed in or prevented from making delivery of the Equipment or providing the Services due to war, strikes, lock-outs, fire, floods, extreme weather conditions, explosion, labour disturbances, trade disputes or shortages in raw material or due to any other cause whatsoever beyond the control of AES, AES shall be at liberty (in its sole discretion) to cancel or suspend the Contract without incurring any liability for any loss or damage arising therefrom (whether in contract, negligence in Tort or otherwise).

## **6. TITLE TO THE EQUIPMENT**

**6.1** Notwithstanding delivery and passing of risk in the Equipment, or any other provision of these Terms and Conditions, title to the Equipment shall not

pass to the Customer and the Equipment shall at all times remain the property of AES.

**6.2** Subject to the consent of the Customer (whether given orally or in writing), AES may on termination of the Contract by either party re-take possession of the Equipment. For this purpose AES may visit any premises of the Customer or third party where the Equipment is kept for the purpose of re-taking possession of the Equipment.

## **7. PRICING AND PAYMENT**

**7.1** Customers shall pay for the Services in accordance with the Price;

**7.2** AES reserves the right to amend any Price and Cancellation Fee, during the Term, in line with AES's pricing review. If the Customer considers any amendments to the Price and Cancellation Fee to be too high the Customer may terminate the Contract with AES in accordance with clauses 11.4 and 11.5. For the avoidance of doubt, the amendments to the Price and Cancellation Fee will not apply to the Customer's account during the termination period.

**7.3** It is hereby expressly agreed that, if the Customer does not pay for the Services within the payment period stated in the Request for Payment Document, this shall be considered a material breach of the Terms and Conditions of the Contract and AES may, at its option, either suspend all further Services to be provided to the Customer until payment has been paid or exercise their Termination Right.

**7.4** All prices quoted are inclusive of Value Added Tax and any other taxes payable for the Services. AES will use reasonable endeavours to provide reasonable advance notice of any change to Prices in the event of changes to government levies, VAT increases, increase to fuel costs or other unexpected increases in AES costs in the provision of the Services.

**7.5** The Customer shall make all payments, without set-off or counterclaim and free and clear of all taxes, deductions, withholdings and other charges within fifteen (15) days of the date on the payment request or as otherwise agreed in writing by AES. The Customer shall ensure that payments on their accounts are made within this period and at least 48 hours in advance of their next collection date to ensure uninterrupted Service. If cleared payments are not made within 48 hours of the next collection date AES shall have no obligation to provide Services.

**7.6** Any amendments to the Price will be confirmed in writing by AES to the Customer and will only be valid until the Customer's next Billing Period. For the avoidance of doubt, any amendments to the Customer's Price will not carry forward to subsequent Billing Periods unless expressly agreed in writing by AES.

**7.7** Where a Customer receives a discounted Price for the Services, which is based on the payment method or Customers choice of invoicing and if the Customer discontinues (for whatever reason) the agreed payment method, AES reserves the right to discontinue the discounted Price to the Customer without further notice and to charge the Customer the undiscounted Price applicable at the time. Please note that discounts that have been applied will not be refundable.

**7.8** AES reserves the right, without further notice, to charge the Customer an administration fee of €5.00 submission if a direct debit payment request is not honoured by the Customer's financial institution on behalf of the Customer.

**7.9** For An Post bill pay and Post Point Customers that discharge their accounts by a less than €20.00 per transaction AES reserves the right to

charge a €1.00 transactional fee to cover the transactional fee charged by the administrator of the account.

**7.10** AES may, at its discretion, suspend Services to the Customer at the Customer's request, if the Customer gives at least one week's notice in writing of the suspension subject to the Customer's account being up to date and the period of suspension is at least three continuous weeks and no more than three continuous months. For the avoidance of doubt, AES will only apply a credit to the Customer's account for the period of suspension.

## **8. INDEMNITY**

**8.1 THE CUSTOMER SHALL INDEMNIFY AES IN RESPECT OF ALL LOSS, DAMAGE OR INJURY OCCURRING TO ANY PERSON, FIRM, COMPANY OR PROPERTY, AND AGAINST ALL ACTIONS, SUITS, CLAIMS AND DEMANDS, CHARGES OR EXPENSES (INCLUDING LEGAL EXPENSES) IN CONNECTION THEREWITH FOR WHICH AES MAY BECOME LIABLE IN RESPECT OF THE EQUIPMENT AND THE MATERIALS IN THE EVENT THAT SUCH LOSS, DAMAGE, OR INJURY SHALL HAVE BEEN OCCASIONED BY THE NEGLIGENCE, MISUSE OF EQUIPMENT, BREACH OF DUTY OR BREACH OF THE TERMS OF THE CONTRACT BY THE CUSTOMER.**

## **9. LIABILITY**

**9.1** AES's total liability under or in connection with the Contract whether in contract, tort (including negligence) or otherwise shall not exceed in aggregate the total fees for Services received by AES from the Customer during the previous six (6) months.

**9.2 AES SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE TO THE CUSTOMER BY REASON OF ANY REPRESENTATION OR WARRANTY, CONDITION OR OTHER TERM OR ANY DUTY OF COMMON LAW, OR UNDER THE EXPRESS TERMS OF THESE TERMS AND CONDITIONS, FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL OR PUNITIVE LOSS OR DAMAGE (WHETHER FOR LOSS OF CURRENT OR FUTURE PROFITS, LOSS OF ENTERPRISE VALUE OR OTHERWISE) AND WHETHER OCCASIONED BY THE NEGLIGENCE OF AES, ITS EMPLOYEES OR AGENTS OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**9.3** Nothing in this these Terms and Conditions shall exclude or limit the liability of AES for death or personal injury resulting from the negligence of AES or any of its employees or agents, nor shall they operate to exclude or limit any statutory rights which cannot be legally excluded or limited, including the statutory rights of a consumer.

## **10. DATA PROTECTION**

**10.1** AES will process any Personal Data provided for the following purposes:

**10.1.1** to adequately deal with and carry out the Services;

**10.1.2** to contact the Customer if required in connection with the Services;

**10.1.3** to respond to any communications sent to AES by the Customer;

**10.1.4** to send notifications about the range of services available from the Group if a Customer has opted to receive such notifications;

**10.1.5** to ensure the Customer only receives communications and promotions from AES which were consented to or which form part of the Services; and/or

**10.1.6** to respond to any Customer complaints.

**10.2** AES will not disclose Personal Data to third parties, outside of the Group, unless the Customer has consented to this disclosure, it is for a legitimate business interest related to AES services or unless a third party is

required to fulfil the Services (in such circumstances, the third party is bound by similar data protection requirements).

**10.3** AES will disclose Personal Data if it believes in good faith that it is required to disclose it in order to comply with any applicable law, a summons, a search warrant, a court or regulatory order or other statutory requirement.

**10.4** For further information in relation to the privacy policy, please refer to the AES privacy notice which is available on [www.aesirl.ie](http://www.aesirl.ie). For the purposes of clarity, Customers shall have the right to:

**10.4.1** find out what Personal Data we hold on them and request access to it;

**10.4.2** the right to have their Personal Data updated, amended or removed from the AES database;

**10.4.3** the right to object to the use of their Personal Data or restrict access to it; and

**10.4.4** the right to request that AES send their Personal Data to a third party.

## **11. TERMINATION OR CANCELLATION OF SERVICES**

**11.1** The Customer may cancel or terminate the Contract during the Cooling-Off Period.

**11.2** The Contract shall commence with effect from the Commencement Date and shall continue for the duration of the Term unless terminated earlier in accordance with the provisions of clause 11.1 or 7.3. Thereafter, unless the Customer gives at least one month's written notice to AES, prior to the expiry of the Term, this Contract shall be deemed to be extended for further periods equal to the Term and shall continue in force until terminated by the Customer giving one month's written notice to AES prior to the expiry of any such extended Term.

**11.3** AES will only accept cancellation or termination notices from the Customer and will not accept notification from any third party.

**11.4** As per clauses 7.2 and 11.2, the Customer must confirm termination of the Services to AES in writing. For the avoidance of doubt, until such time as AES receives the termination notice from the Customer the Service Charges will continue to accrue.

**11.5** As per clauses 7.2 and 11.2, AES reserves the right to insist on one month's written notice during which time the Services will continue to be provided by AES and the Service Charges will continue to accrue.

**11.6** Upon termination of this Contract by the Customer, outside of the Cooling-Off Period, AES reserves the right to charge the Customer a Cancellation Fee and this charge will become due and owing to AES by the Customer as a normal contract debt.

**11.7** If a credit applies to a Customer's account on termination or cancellation of the Services the Customer will receive a refund for the prepaid period less any Cancellation Fee that may be applied.

**11.8** Where a Customer has obtained a discounted Price that is subject to the Customer agreeing to a minimum Term of Contract and the Customer subsequently cancels or terminates the Contract, prior to the expiry of the minimum Term, AES reserves the right to charge the Customer the remaining balance of the Price due to AES for the remainder of the Term.

**11.9** On termination of the Contract, AES shall have the right in accordance with the provision of clause 6.2 to remove Equipment.

**11.10** Upon termination of this Contract, outside of the Cooling-Off Period, by either party, any amounts owing to AES shall immediately become due and payable by the Customer. The termination of this Contract shall be without

prejudice to any rights or obligations which shall have accrued before termination, including any remedy available in respect of a breach of this Contract.

**12. GENERAL**

**12.1** The construction validity and performance of the Contract shall be governed by and construed in accordance with the laws of Ireland and for all matters arising under, out of or in connection with the Contract the parties hereby submit to the exclusive jurisdiction of the Irish courts.

**13. Governing Law and Jurisdiction**

**13.1** These terms and conditions shall be governed by the laws of Ireland and are subject to the exclusive jurisdiction of the courts of Ireland.