

## TIPPING TERMS & CONDITIONS

### 1. General

1.1. In this agreement, unless the context otherwise requires:

- a) **We**, us and our means Treetops Land Development Ltd;
- b) **You** and **your** means you, the Company, Client or the Customer, and includes any person who has guaranteed the Customers obligations;
- c) **Cleanfill** means cleanfill as defined in the Auckland Unitary Plan definitions and as references Chapter E30. Refer also to table 1 below;
- d) **Potential Cleanfill** means any material that if appropriately mixed can meet the definition of Cleanfill. Refer to table 2 below.
- e) **Contaminated fill** means material that contains any substances that mean a truck load will not meet the definition of cleanfill or potential cleanfill;
- f) **Costs** means any additional direct or indirect costs incurred by us as a result of you breaching these Terms & Conditions. Such costs include our time and that of any associated party or company;
- g) **Fill** means pre-approved cleanfill or potential cleanfill;
- h) **Form** means a paper form or an electronically completed form or an online form on our website completed on a computer or portable device such as a tablet or cellphone;
- i) **Site** means 577 Haruru Road;
- j) **Trucks with trailers** now accepted if we are advised before arriving.
- k) **Deposit or tip** means to unload or otherwise deposit material at the site
- l) **Approval in writing** means the approval by management of Treetops Land Development Ltd in a written form, which may include electronic communications such as email and txt messages

1.2 These terms and conditions apply to all goods and/or services provided by Treetops Land Development Ltd to you.

1.3 **By entering the site you agree to be bound by these terms and conditions.**

1.4 We reserve the right to modify these Terms & Conditions at our sole discretion at any time.

1.5 Other than truck drivers and any accompanying assistants delivering fill to the site, all other visitors to the site must have approval in writing prior to entering the site.

### 2. Tipping

2.1 Only Cleanfill or Potential Cleanfill is acceptable.

2.2 It is your responsibility to ensure any material deposited complies with the definition cleanfill or potential cleanfill.

2.3 Unless otherwise directed by us, all cleanfill is to be deposited at the tip head.

2.4 We, at our sole discretion, reserve the right to refuse any fill material or truck load.

2.5 We reserve the right to recover from you any and all costs incurred by us as a result of non-complying material being deposited by you.

#### Load confirmation

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- 2.6 The delivering truck driver must complete a tipping docket for each load tipped prior to leaving the tip site. See sample attached.
- 2.7 You may incur additional costs should you deposit any fill without a tipping docket being completed prior to depositing any fill. Such costs may be substantial.

### **3. Soil Testing**

- 3.1 All jobs placing more than 200m<sup>3</sup> (solid) of fill at our facility may be required to provide soil testing results for contamination, to confirm compliance with the definition above, of cleanfill or potential cleanfill.
- 3.2 The test results must be assessed by an accredited testing organisation acceptable to us.

### **4. Non-complying fill**

- 4.1 If at our sole discretion following non-complying test results of any analytical or screen testing undertaken by us on any fill, it is determined that material tipped by you does not comply with these terms, you may be required by us to remove such material from the site at your cost.
- 4.2 If non-complying fill has been mixed on-site then you will be liable for the costs of the excavation, removal and disposal of the mixed fill.
- 4.3 If we are unsatisfied, for any reason, with the arrangement made for the removal of fill from our facility by you, or you do not remove the fill within 5 days of notification by us that you are required to remove it, then at our sole discretion:
  - a) we may undertake this removal work directly;
  - b) we may return any contaminated material to your site;
  - c) you will be liable for all costs associated with the removal and remediation of the facility, including but not limited to the costs of investigation, testing, excavation, transport, tipping fees at an alternative facility, project management fees and all other fees;

### **5. Fees**

- 5.1 You will pay us for all fill tipped by you and/or your agents at the site;
- 5.2 The fees payable will be as per our price list which may be published on our website ([www. Treetopslanddevelopment.co.nz](http://www.Treetopslanddevelopment.co.nz)), on the date fill is deposited, unless an alternative fee structure is agreed in writing between you and us prior to fill being deposited;
- 5.3 We reserve the right to alter our fees at any time and at our sole discretion;
- 5.4 We reserve the right to determine which price category applies to each load of fill;
- 5.5 Additional administration fees may apply if any forms are incorrectly completed.
- 5.6 Unauthorised access onto the site may result in a fee of up to \$10,000 plus all costs of enforcement and recovery. Vehicles may be impounded until these costs have been paid.
- 5.7 If you breach any of the Terms & Conditions you will be liable for all costs incurred by us as a consequence of that breach.
- 5.8 If as a result of your actions we are unable to operate the Cleanfill for any period, then we may charge you an additional fee of up to \$5,000 per day or part thereof.

### **6. Payment**

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- 6.1 Prior to any fill being deposited, an Account Application form must have been completed by you and approved by us.
- 6.2 Unless payment terms are confirmed in writing by us, then by default payment is due 7 days after invoice.
- 6.3 Depositing any fill means you accept our payment terms.
- 6.4 If you fail to pay within the agreed payment terms then:
  - 6.4.1. we reserve the right to refuse you access to the site to deposit fill; regardless of whether you have an approved booking.
  - 6.4.2. you may be charged interest on overdue amounts at 2% per month
  - 6.4.3. you will be liable to pay all additional collection costs incurred by us, including but not limited to: our administrative costs, legal cost, debt collection services and court costs.
  - 6.4.4. we reserve the right to return an equivalent quantity of fill, at your cost, to either the originating source site or to your premises or to a Directors address.
- 6.5 We reserve the right to limit and/or withdraw any credit account at any time, for any reason.
- 6.6 You may not deduct or withhold any amount, whether by way of set-off, counterclaim or otherwise, from any money owing to us.
- 6.7 Any dispute relating to fees must be initially made in writing within 10 working days of the date of invoice. Otherwise the invoice shall be payable in full, and no claim relating to it may be raised by you.
- 6.8 If you have difficulty meeting these payment terms please talk to us.

### **7. Liability**

- 7.1 If this agreement is entered into by an agent, or person claiming to be your agent, then both you and the agent will be jointly and severally liable for all monies owed.
- 7.2 All parties referred to as “the Customer” and or “you” are jointly and severally liable for all monies owed by you.
- 7.3 Your personnel, agents, drivers and any other person coming onto our site shall:
  - (a) comply with all reasonable instructions given by us;
  - (b) comply with all signage (including speed restrictions);
  - (c) respect the hours of operation (which may vary);
  - (d) ensure they do not track dirt onto any public road; and
  - (e) ensure they do not cause excessive noise.
  - (f) drive only on the sealed or metalled part of access ways
- 7.4 We have no responsibility for any damage in relation to trucks, vehicles or other equipment belonging to you or your agent.

### **8. Legal & other**

- 8.1 All of our rights, powers, exemptions and remedies will remain in force notwithstanding any neglect, forbearance or delay in the enforcement on our part.
- 8.2 Where you are a business within the meaning of the Consumer Guarantees Act 1991 you agree, you are acquiring our goods and/or services for the purposes of your business and such act does not apply .

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- 8.3 Any exercise of a right, power, exemption or remedy by us will be without prejudice to any other right, power, exemption or remedy that we may have.
- 8.4 If any provision of these terms and conditions is invalid or unenforceable, the remaining provisions will continue in full force and effect.
- 8.5 Our agreement is governed by New Zealand law.
- 8.6 Force Majeure – we will not be liable to you, if you are prevented from depositing booked load(s) by reason of circumstances beyond our control.
- 8.7 Notices - Any notice or other document required to be served under this agreement may be delivered:
- to us, by email to [info@Treetopslandevelopment.co.nz](mailto:info@Treetopslandevelopment.co.nz)
  - by us, to the email address in the Account Application form completed by you or to the email address you have given us for invoicing purposes or to the company email address advertised by your or to any other email address you may have communicated to us.

*NB To avoid any doubt this is to be read as an agreement meeting s387(1)(e) of the Companies Act.*

### 9. Health & Safety

- 9.1 The Customer must comply with all health and safety legislative requirements, including the Health and Safety at Work Act 2015 and all related legislative instruments, guidance and codes of practice (Health and Safety Legislation).
- 9.2 Our health and safety policies and procedures must be complied with at all times by any person on the site or wider property.
- 9.3 You will ensure that you comply with all reasonable directions by us.
- 9.4 You will indemnify us in respect of any claims brought against us resulting from any breach by you of your obligations under these terms and conditions or any other legislation.
- 9.5 In the event of an accident you will provide all reasonable assistance in relation to any investigation.

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### ADDITIONAL RELEVANT INFORMATION

#### Consent Condition 42 - Cleanfill definition

**Table 1: Acceptable Cleanfill Material**

Asphalt (cured)	< 5% by volume of the overall fill material.
Bricks	< 5% by volume of the overall fill material.
Ceramics	< 5% by volume of the overall fill material.
Concrete – un-reinforced	< 5% by volume of the overall fill material.
Concrete – reinforced	< 5% by volume of the overall fill material.
Fibre cement building products	< 5% by volume of the overall fill material. Inert material comprising cellulose fibre, Portland cement and sand.
Glass	< 5% by volume of the overall fill material.
Soils, rock, gravel, sand, clay, etc.	Acceptable if free of contamination.
Tiles (clay, concrete ceramic)	< 5% by volume of the overall fill material.
Vegetation material	< 2% by volume of the overall fill material.

**Table 2: Acceptance Levels for Cleanfill Material**

Constituent	Acceptance Criteria (mg/kg).
Arsenic	<12
Boron	<45
Cadmium	<0.65
Chromium	<55
Copper	<45
Lead	<65
Mercury	<0.45
Nickel	<35
Zinc	<180
Polycyclic Aromatic Hydrocarbons (PAHs)	Less than laboratory detection limit
Organochlorine pesticides	Less than laboratory detection limit

#### **Advice note:**

*Background contamination levels for the site receiving cleanfill can be found in the Auckland Regional Council, Technical Publication No. 153, Background concentrations of inorganic elements in soils from the Auckland Region (2001), specifically – the Non-Volcanic Range of trace elements.*

# TIPPING TERMS & CONDITIONS

## Sample tipping docket

Account Holder/Charge To:							T 0000 1264		
Site Address:							Our Terms & Conditions apply to all fill tipped here.		
T 0000 1264									
Date	Time	Rego	Driver Name	Truck <sup>1</sup> Size	Trailer <sup>3</sup> Size	Fill Type <sup>2</sup>	Signature	Comments / Transporter if not Account Holder	
1									
2									
3									
4									
5									
6									
7									
8									
9									
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<b>Notes:</b>							<b>IMPORTANT</b>		
1 Truck size – 4, 6 or 8 wheeler or Artic							All material from a Horticultural or HAIL site or		
2 Fill Type Code:							All material from a Horticultural or HAIL site or		
- C - Cleanfill							Akl CBD must be tested before depositing here.		
- CD - Cleanfill Damp							If in any doubt phone 0274-944-484		
- CW - Cleanfill wet = Slop									
3 Trailer size - 2,3,4 or 5 axle									
							T 0000 1264		

NB Form format subject to change at our sole discretion.