



## **RE:CIRCLE Ontario LLC**

### **Terms and Conditions**

### **for Transportation and Acceptance of Organic Waste**

v4 dated February 11, 2025

**RE:CIRCLE Ontario LLC**  
**Terms and Conditions**  
**for Transportation and Acceptance**  
**of Organic Waste**

1. **General.** These terms and conditions ("Terms") are the only terms which govern the acceptance of organic waste (the "Materials") by RE:CIRCLE Ontario LLC ("RE:CIRCLE") from the customer ("Customer"), for the purposes of providing recycling services. These Terms constitute the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Customer will be deemed to have accepted and hereby agrees to be bound by these Terms upon Customer's delivery of Materials to Re:CIRCLE. These Terms prevail over any of Customer's general terms and conditions regardless of whether or when Customer has submitted such terms.

2. **Delivery of Materials.** Customer shall notify RE:CIRCLE, no less than twenty-four (24) hours prior to the proposed delivery date and time and provide (i) a written description of the Materials; (ii) the estimated number of pallets and/or weight of the Materials; and (iii) the proposed date of delivery ("**Delivery Date**"). If the proposed delivery is accepted by Customer, RE:CIRCLE will issue a written confirmation via email or other electronic means ("**Confirmation**") which confirms the information provided by the Customer and provides the address to which the Customer shall deliver the Materials (the "**Delivery Point**"). Customer shall deliver the Materials in the quantities and on the Delivery Date(s) set forth in the Confirmation during RE:CIRCLE's normal business hours or as otherwise instructed by RE:CIRCLE.

a. **Loading and Securing.** Customer must ensure that all Materials are properly and safely loaded and secured for transportation. If the Materials are not loaded or secured properly, Customer agrees to pay RE:CIRCLE a "**Hard to Handle Fee**" which reimburses RE:CIRCLE for the extra labor, materials and equipment required to unload the Materials, and compensates for the safety impacts that the improper loading and/or securing can have on RE:CIRCLE's staff. Additional fees to clean the trailer may also be applied if extra labor and/or materials are necessary to clean the trailer, and eliminate or clean any spills. Incoming loads must comply with all applicable federal, state and local weight limitations and laws. If Customer attempts to deliver a shipment of Materials which

is overweight or not in compliance with applicable laws, all costs and damages resulting therefrom shall be charged to the account of, and borne by, the Customer and shall be promptly paid to RE:CIRCLE.

b. **Packaging.** Customer agrees to ensure that all Materials are properly packaged in containers, or in containers secured to pallets, that are "Forklift Ready". Stretch film may be applied by Customer to secure safe transportation of pallets. All containers utilized for transporting Materials to RE:CIRCLE must be in good order and condition, and have a liner to prevent leakage and spillage. If customer tenders Materials in a damaged container, or fails to provide a proper liner, RE:CIRCLE, in its sole discretion, reserves the right to reject the Materials and/or impose an additional Hard to Handle Fee in accordance with paragraph 5 of these Terms. RE:CIRCLE will not accept trailers that are leaking, are not safe to open, or the contents are otherwise unsafe to handle due to improper packaging, loading and/or securing.

3. **Onboarding and Trial Loads.** Prior to acceptance of any Materials, the Customer's representatives who have knowledge regarding the characteristics of the Materials that the Customer intends to provide, shall meet with representatives from RE:CIRCLE to agree upon the Materials that are acceptable to RE:CIRCLE, to obtain instruction and training from RE:CIRCLE regarding Contaminants and the packaging and transportation of Materials ("**Onboarding**"). Following the Onboarding, initial shipments from the Customer shall be handled on a trial basis, during which special attention will be given to the Materials received and the packaging and transport of same ("**Trial Loads**").

4. **Inspection and Rejection of Nonconforming Materials.** Customer agrees and warrants that the Materials will not contain glass, wood, meat, plastic, cans, metal, medical waste, mixed solid waste, electronic waste, organic material containing maggots or other hazardous or toxic waste ("**Contaminants**"). Customer is responsible for ensuring that the Materials are free of Contaminants, suitable for recycling, and meet the quality standards defined and documented during Onboarding and the Trial Loads. Customer agrees that the Materials will match the general appearance and characteristics of the Trial Loads or reference materials provided by Customer. RE:CIRCLE reserves the right to inspect the Materials on or after the Delivery Date. RE:CIRCLE, at its sole option, may inspect all or a sample of the Materials, and may reject all or any portion of the Materials if it determines the Materials contain Contaminants or otherwise are hazardous, toxic or pose a risk to health, safety, or the environment,



do not meet the quality standards agreed upon between RE:CIRCLE and Customer, or otherwise violate these Terms. If RE:CIRCLE rejects all or any portion of the Materials ("**Rejected Materials**"), it is the Customer's responsibility to ensure proper disposal of the Rejected Materials and arrange for their removal from RE:CIRCLE's facility, at the Customer's expense and risk, within one business day. RE:CIRCLE may employ reasonable efforts to assist the Customer in finding an appropriate location for disposal of the Rejected Materials. Should the Customer fail to timely remove and dispose of Rejected Materials, RE:CIRCLE has the right to transport the Materials to a landfill and dispose of them there pursuant to paragraph 5.d. below.

#### 5. Fees and Payment Terms.

a. Customer shall compensate RE:CIRCLE for the Materials that RE:CIRCLE has accepted from Customer in accordance with the rates set forth in the agreement between the parties in which these Terms are incorporated by reference. The rates shall be applied to the weight of the Materials at the Delivery Point on the Delivery Date as determined by RE:CIRCLE using its facilities to weigh the Materials (the "**Established Weight**"). The total fees to be paid by Customer to RE:CIRCLE will be determined by applying the rates to the Established Weight, including any other applicable fees under these Terms.

b. RE:CIRCLE may assess charges to the Customer described in the Price Schedule included in the Frame Agreement for Transportation and Acceptance of Organic Waste which is incorporated herein and made a part hereof (as amended from time to time) if the delivered Materials are found to contain Contaminants or to be of insufficient quality for recycling ("**Contamination Fees**"). The Contamination Fees shall be applied to each container or pallet which contains Contaminants that has been rejected by RE:CIRCLE. RE:CIRCLE will document the status of the Materials for the purposes of applying the Contamination Fees in this Section with photos, which may be provided to the Customer upon request. Customer shall bear all costs and expenses related to packaging, transportation to the Delivery Point, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes.

c. RE:CIRCLE may assess a Hard to Handle Fee, calculated pursuant to the rates set forth in the Schedule if, pursuant to paragraph 2 of these Terms, the Materials have been improperly loaded, secured or packaged and require additional handling by RE:CIRCLE.

d. In the event that Contaminants in the Materials warrant, in RE:CIRCLE's sole discretion, transporting the Materials to a landfill or in the

event that Customer fails to timely remove and dispose of Rejected Materials pursuant to paragraph 4, RE:CIRCLE has the right to transport all such Materials to a landfill, dispose of them and recover all associated loading, transportation, unloading and disposal costs from Customer.

e. In the event that RE:CIRCLE is required to clean a trailer due to fault on the part of the Customer, RE:CIRCLE may also assess an additional fee if extra labor and/or materials are required to clean the trailer and eliminate or clean up any spills.

f. In the event that any of RE:CIRCLE's yard containers is damaged while in the custody of the Customer, or due to any fault on the part of the Customer, including but not limited to improper packaging, use of a damaged or inadequate pallet or for any other reason attributable to the Customer, RE:CIRCLE will invoice the Customer for the replacement cost of the damaged yard container(s). The current replacement cost of the type of yard container used by RE:CIRCLE is set forth on the Schedule.

g. RE:CIRCLE shall issue an invoice to Customer for any fee described above that is assessed to the Customer, in accordance with the rates described in the Schedule. Customer shall pay all invoiced fees within thirty (30) days after receipt of such invoice. RE:CIRCLE reserves the right to set off at any time any amount owed to it by Customer against any amount payable by RE:CIRCLE to Customer.

#### 6. Certificate of Destruction.

a. If Customer needs a certificate of destruction ("**COD**") or a certificate of repurposing ("**COR**"), the Certificate Request and Contamination Declaration forms as established by RE:CIRCLE must be completed by the Customer prior to delivery of Materials at the Delivery Point. A COD or COR will not be provided after delivery of Materials if proper documentation is not provided prior to the Delivery Date. One Certificate Request and Contamination Declaration form must be completed and provided to RE:CIRCLE for each individual COD or COR that is required, describing the Materials that will be included in each COD or COR. For any loads requiring a COD or COR hauled by an independent motor carrier engaged by the Customer or third party, Customer must include the Delivery Date that the load will arrive at the Delivery Point. A bill of lading must be provided for all loads received by RE:CIRCLE containing Materials that require a COD or COR which includes a description of the Materials, weight, and number of pallets.

b. If multiple groups of Materials that require separate CODs or CORs are loaded onto the same



trailer, separate bills of lading must be provided for each group requiring a separate COD or CORs that include a description and weight of the Materials designated for destruction.

c. Any loads delivered to RE:CIRCLE requiring a COD or COR must be sealed by the Customer, with the seal number recorded on the bill of lading, to ensure the chain of custody is not broken between the time that the Materials leave the Customer's facility and the time the Materials are delivered to RE:CIRCLE's facility. In the event a load that required a COD or COR is received with a broken or missing seal, or with an inconsistency between the weight and/or pallet count on the bill of lading and what is recorded upon delivery, RE:CIRCLE will contact the Customer and will not unload the trailer until RE:CIRCLE receives instructions from the Customer regarding further handling of the shipment. If the Customer instructs RE:CIRCLE to unload the trailer, and Customer elects not to be present or to send a representative to be present during unloading, RE:CIRCLE will have no responsibility or liability whatsoever for discrepancies between the quantity unloaded and the quantity which is described on the bill of lading. If instructions are not received by RE:CIRCLE from the Customer within forty-eight (48) hours of the shipment's arrival at RE:CIRCLE's facility regarding handling of the shipment, RE:CIRCLE reserves the right to reject the shipment and return it to Customer, or arrange for its disposal, at the Customer's expense.

d. CODs and CORs will be provided to the Customer within one (1) week of receipt of the Materials. Special requests for faster delivery of CODs or CORs must be presented to and agreed to by RE:CIRCLE. Certificates or data shall be requested by Customer before material is received by RE:CIRCLE and are subject to the applicable service fees as set forth on the Schedule.

7. Warranties. Customer warrants to RE:CIRCLE that all Materials will: (i) meet the quality standards agreed upon during Onboarding, and (ii) not contain Contaminants. These warranties survive any delivery, inspection, acceptance or payment of or for the Materials by RE:CIRCLE. The warranties set forth in this Section are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of RE:CIRCLE's discovery of the noncompliance of the Materials with the foregoing warranties.

8. Indemnification. Customer shall defend, indemnify and hold harmless RE:CIRCLE and RE:CIRCLE's parent company, their subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees against any and all loss, injury, death, damage, liability, claim, deficiency, action,

judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, the cost of enforcing any right to indemnification hereunder and the cost of prosecuting claims for coverage against any insurer, arising out of or occurring in connection with the Materials or Customer's negligence, fraud, willful misconduct or breach of the Terms. Customer shall not enter into any settlement with a third party or insurer without RE:CIRCLE's prior written consent.

9. Limitation of Liability. Nothing in these Terms shall exclude or limit Customer's liability for fraud, personal injury or death caused by its negligence, willful misconduct, breach of warranty or breach of these Terms.

10. Compliance with Law. Customer shall comply with all applicable laws, regulations and ordinances relating to the sale, packaging, loading and transportation of the Materials. Customer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under these Terms.

11. Termination. In addition to any remedies that may be provided under these Terms, RE:CIRCLE may terminate these Terms with immediate effect upon written notice to the Customer, either before or after the acceptance of the Materials, if Customer has not performed or complied with any of these Terms, in whole or in part. If the Customer becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then RE:CIRCLE may terminate these Terms upon written notice to Customer. If RE:CIRCLE terminates these Terms for any reason, Customer's sole and exclusive remedy is payment for the Materials received and accepted by RE:CIRCLE prior to the termination.

12. Right of First Refusal. In the event that Customer should intend during the pendency of these Terms to deliver and purchase recycling services for its Materials to a recycler other than RE:CIRCLE for amounts different from the rates set forth on the Schedule (as reflected in substantiating documentation provided to RE:CIRCLE), Customer shall first provide RE:CIRCLE a "**Right of First Refusal**" such that, for an exclusive period of thirty (30) days, RE:CIRCLE shall have the opportunity to match or better the rates which Customer intends to pay the other recycling services provider. During the exclusive thirty (30) day period, RE:CIRCLE shall have the right to notify Customer that it is exercising its Right of First Refusal and will continue to provide recycling services to Customer pursuant to these Terms but at the rates a set forth



in RE:CIRCLE's notice to the Customer. If RE:CIRCLE fails to exercise its Right of First Refusal within the exclusive time stated above, this Right of First Refusal shall have no more force and effect.

13. Waiver. No waiver by RE:CIRCLE of any of the provisions of these Terms is effective unless explicitly set forth in writing and signed by RE:CIRCLE. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these Terms operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

14. Confidential Information. All non-public, confidential or proprietary information of RE:CIRCLE, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, fees, discounts or rebates, disclosed by RE:CIRCLE to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form of media, and whether or not marked, designated or otherwise identified as "confidential" is confidential, and may not be disclosed or copied unless authorized in advance by RE:CIRCLE in writing. Upon RE:CIRCLE's request, Customer shall promptly return all documents and other materials received from RE:CIRCLE. RE:CIRCLE shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain, (b) known to Customer at the time of disclosure without violation of any confidentiality obligations; or (c) rightfully obtained by RE:CIRCLE on a non-confidential basis from a third party.

15. Force Majeure. No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached these Terms, for any failure or delay in fulfilling or performing these Terms, when and to the extent such party's (the "**Impacted Party**") failure or delay is caused by or results from the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake or other natural disasters, epidemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of shipment of the Materials; and (f) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within 3 days of the Force Majeure Event to the other party, stating the estimated period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the

failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Force Majeure Event remains uncured for a period of 30 consecutive days following written notice given under this Section 15, the either party may thereafter terminate these Terms upon 7 days' written notice.

16. Assignment. Customer shall not assign, transfer, delegate or subcontract any of its rights or obligations under these Terms without the prior written consent of RE:CIRCLE. Any attempted assignment or delegation in violation of this Section shall be null and void and constitute a grounds for termination under paragraph 11 of these Terms. No assignment or delegation shall relieve the Customer of any of its obligations hereunder. RE:CIRCLE may at any time assign or transfer any or all of its rights or obligations under these Terms without Customer's prior written consent to any affiliate or to any person acquiring all or substantially all of RE:CIRCLE's assets or controlling interest of RE:CIRCLE.

17. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in these Terms shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

18. No Third-Party Beneficiaries. These Terms are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

19. Governing Law. All matters arising out of or relating to these Terms are governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the State of California.

20. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to these Terms shall be instituted in the federal courts of the United States District Court for the Central District of California, Eastern Division or the courts of the State of California, located in San Bernardino, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. In the event of suit or



any other legal and/or administrative action brought by the parties herein to enforce their legal rights, the prevailing party is entitled to recovery of reasonable attorney's fees, collection agency costs, and court costs.

21. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses designated by the receiving party in the Confirmation. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in these Terms, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

22. Severability. If any term or provision of these Terms is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.

23. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of these Terms including, but not limited to, the following provisions: 7 (Warranties), 8 (Indemnification), 9 (Limitation of Liability), 10 (Compliance with Laws), 14 (Confidential Information), 19 (Governing Law), 20 (Submission to Jurisdiction) and 23 (Survival).

24. Amendment and Modification. These Terms may be amended by RE:CIRCLE at any time upon prior written notice to the Customer.