



UNITED RESOURCE MANAGEMENT



SERVICE AGREEMENT FORM

Service Address		Postal Address (Same as Service Address)	
Company Name	Rukus Cafe	Company Name	
ABN or ACN	21612946240	Address	
Address	2 Palm Rd	Suburb	
Suburb	Newport	Post Code	
Post Code	2106		
Phone		Attention	
Fax		Position:	
Contact Name	Shaun Pereira	Phone	
Position	Director	Mobile:	
Mobile	0422984612	Email:	
Email	rukuscafe@gmail.com		
Customer Order Number			

Service Agreement Term:	
One Year (X)	
Three Years ()	
Agreement Commencement Date:	Proposed Delivery Date:
17/8/2020	21/8/2020
Estimated Weight of Waste (KG/m3):	First Service Date:

Bin Details			
Rental Excl GST	Bin Delivery Fee Excl GST	Qty	Office Use
	\$30 once off		

SERVICE SCHEDULE											
Commodity	Qty	Size	* Unit Price Ex GST	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Frequency
General waste	1	660L	34.00				X				WK
Paper/Cardboard	1	660L	7.00				X				WK

* Unit can be referred to the number of bins or cents per litre for grease trap only

SPECIAL REQUIREMENTS	
Conditions	
Bin Location	
Run Sheet Instructions	Bins located off Palm Rd next to Bowling club bins



UNITED RESOURCE MANAGEMENT



Terms & Conditions

1. DEFINITIONS

Agreement means this agreement including the Schedule;

Client means the Client described in the Service Agreement Schedule, its associated entities and/or persons and their successors, executors, administrators and permitted assigns. If a trading name is specified, then the owner of that trading name is the Client;

Equipment is defined in clause 2;

Guarantor is defined in clause 11;

Initial Term is defined in clause 3;

Schedule means the document titled "Service Agreement Schedule" attached to this Agreement;

Services are defined in clause 2;

Service Fees are defined in clause 4;

Site means the Client's nominated premises at which the Services are to be performed including any additional site the Client operates from and/or including any site that the Client relocates to; and

URM means URM Environmental Services Pty Limited ACN 066 120 090, its nominees, successors and assigns.

2. SERVICES

(a) The Client will rent waste removal containers and machinery and/or devices (if specified in the Schedule or otherwise by taking delivering of such items) to assist in waste storage, compaction, processing and removal (the **Equipment**).

(b) URM will undertake the waste management services specified in the Schedule (the **Services**) on the terms and conditions set out herein.

(c) The Client relinquishes all proprietary rights in all waste and material collected pursuant to this Agreement.

3. TERM AND RENEWAL

(a) This Agreement will commence on the date that the first Service is provided by URM.

(b) Unless otherwise specified in the Schedule in writing, this Agreement will continue for an initial term of **three (3) years** (such period being the **Initial Term**).

(c) The Initial Term will be extended for successive further periods equal to 12 months unless the Client provides written notice to URM of its intention not to renew this Agreement at any time in the period commencing 120 days and ending 30 days prior to the expiry of the Initial Term, and each renewed term as the case may be.

4. SERVICE FEES AND VARIATION OF SERVICE FEES

(a) The Client agrees that all service fees and charges with respect to the Services and rental of Equipment will be calculated by URM as specified in the Schedule (the **Service Fees**).

(b) All prices are exclusive of GST unless otherwise specified. The Client will pay all GST to URM in relation to the Service Fees at the same time that it pays the Service Fees.

(c) The Client agrees to pay the Service Fees to URM at the times and in the manner directed by URM from time to time and pay URM interest in relation to all overdue amounts at the rate of 10% per annum compounding daily.

(d) The Client acknowledges that URM may vary the Service Fees payable to account for: increases in operating costs outside the control of URM (for example, increases in an award, fuel costs or the location of disposal facilities) and/or changes in government levies, disposal and other fees, charges, duties, and/or any other legislative changes.

(e) URM must provide the Client with written notice of any such variation in the Service Fees and the Service Fees will be automatically varied in accordance with such notice 30 days after such notice is sent to the Client.

(f) The Service Fees specified in the Schedule are quoted on the basis of the collection schedule determined by URM under which URM aims to schedule the Services at a time suitable to the Client (as well as considering the needs of URM's other clients) and on the basis of the Client's location and the amount of Services and frequency of Services the Client requires.

(g) In the event that the Client requires the Services to occur at specific time that does not form part of a scheduled collection, charges in addition to the Service Fees may apply.

(h) If URM is unable to perform the Services due to reasons within the control of the Client, then the Client will be required to pay the Service Fees

5. EQUIPMENT, RISK AND INDEMNITY

(a) The Client does not acquire or have any property or interest in or to the Equipment except the temporary right to use the Equipment under the terms of this Agreement.

(b) The Client has examined the Equipment and has satisfied itself as to the condition of the Equipment and its suitability for the Client's purposes.

(c) The Client is responsible for the maintenance and repair of the Equipment including its replacement if destroyed (for any reason) or stolen, at the Client's sole expense.

(d) The Client must not and must not attempt to: (i) use the Equipment for any other purpose than as contemplated under this Agreement, (ii) sell or dispose of the Equipment; (iii) modify the Equipment or use the Equipment in a manner for which it was not designed; (iv) alter any identifying number or mark on the Equipment; and/or (v) otherwise encumber the Equipment in any way.

(e) The Client must not relocate the Equipment from the Site without URM's prior written consent and the Client must notify URM immediately following any loss or damage to the Equipment.

(f) The Client must indemnify URM against any claims and costs whatsoever arising out of the use, operation or storage of the Equipment or any defect in the Equipment, whether present or future (except where arising from URM's gross negligence).

(g) URM does not provide any warranty, condition or representation as to the quality, fitness for purpose, safety or otherwise with respect to the Equipment to the extent permitted at law.

(h) So far as the law permits, all conditions and warranties which might be implied to have been given by URM are excluded.

(i) So far as the law permits, the Client will indemnify URM (and its directors, officers, agents and employees) and hold them harmless against any loss or damage (or claim or demand for the same) incurred by the Client or any third party (including but not limited to injury or death) arising from or in connection with the provision of the Services, the Equipment and/or otherwise with this Agreement (except where arising from URM's gross negligence). The Client further acknowledges and agrees that under no circumstances will URM be liable for any indirect, consequential or economic loss arising under this Agreement suffered by the Client or any other person or entity.

(j) The Client will ensure that no illegal, combustible, corrosive, toxic, radioactive, volatile, highly flammable, explosive or other dangerous matter is deposited in the Equipment, and the Client will indemnify and hold harmless URM (and its directors, officers, agents and employees) against any loss or damage (or claim or demand for the same) incurred by the Client or any third party (including but not limited to injury or death) arising as a result of the Client's failure to do so.

(k) If this Agreement expires or is terminated, the Client authorises URM to enter upon any premises where any Equipment may be located and to take possession of the Equipment. The Client waives, releases and indemnifies URM from any liability for any damage or loss occasioned in retaking or attempting to retake possession of the Equipment (except where arising from URM's gross negligence).



UNITED RESOURCE MANAGEMENT



(l) The Client agrees that URM's maximum aggregate liability under this Agreement is limited to the Service Fees received by URM for the previous calendar year or, if arising in the first calendar year, the Service Fees received by URM to date

6. CLIENT WARRANTIES

The Client warrants that:

- (a) all ground surfaces required to be traversed by any URM vehicle (in or around the Site) are suitable for that purpose;
- (b) the weight and type of any waste deposited in any Equipment will not exceed the weight limit or differ from the type of waste as directed by URM;
- (c) it will not damage, destroy or contaminate any Equipment whether due to the storage or processing of incorrect, unsuitable, dangerous or corrosive materials or waste or for any other reason;
- (d) it will not remove, damage or deface any Equipment belonging to URM;
- (e) the Equipment will be used only in connection with the Client's business; and
- (f) URM will be given as much access as is reasonably necessary to private property to provide the Services.

7. BREACH OF THIS AGREEMENT

If the Client:

- (a) does not pay a tax invoice issued pursuant to this Agreement within the time specified on such invoice (or if no time is specified, then within 14 days of the date of issue);
 - (b) commits any breach of this Agreement and the Client fails to rectify such breach within 14 days of URM giving the Client notice of such breach;
 - (c) indicates, expressly or impliedly, that it is no longer willing or no longer able to be bound by the terms of this Agreement; or
 - (d) commits or suffers an act of bankruptcy, insolvency or enters into an arrangement with its creditors or being a company, is subject to an order to be liquidated or wound up or have a receiver and/or manager, liquidator, controller or administrator appointed,
- URM may, at its option without prejudice to any other right or remedy URM may have contained in or implied under this Agreement or at law: (i) take appropriate action to enforce the performance of this Agreement; and/or (ii) recover damages for such breach(es) of this Agreement; and/or (iii) by notice to the Client, terminate this Agreement with immediate effect.

8. SUSPENSION

The Client acknowledges that the Services may be suspended by URM in the event that the Client fails to comply with any provision of this Agreement, including without limitation the obligation to promptly pay the Service Fees.

9. TERMINATION

- (a) This Agreement may be terminated by either party if: (i) an essential term of this Agreement has been breached by the other party; (ii) the first party has provided written notice to the party allegedly in breach within seven days of such alleged breach occurring; and (iii) the other party has not remedied such alleged breach within a further 14 days.
- (b) Despite any other term of this Agreement, URM is entitled to terminate this Agreement on providing thirty days written notice to the Client.
- (c) If URM fails to provide the Services on more than 20% of the individual days it is scheduled to do so during any rolling calendar year (due to reasons within URM's control and specifically excluding any failures for reasons of force majeure), URM will be deemed to have breached an essential term of this Agreement. Otherwise, any actual or alleged issues or breaches with respect to terms relating to URM's provision of Services will be deemed not to be a breach of an essential term of this Agreement.
- (d) An alleged breach may not be relied on by the Client to assert that it is entitled to terminate this Agreement unless URM was provided with written notice of such breach (including photographic or other supporting material) within seven (7) days of such breach occurring. The parties agree that this sub-clause 9(d) is fair and reasonably required to permit URM to verify alleged breaches given that the Services and the services provided to URM's other clients are, on aggregate, high in volume and frequency.
- (e) If this Agreement is repudiated or terminated by the Client except under the mechanism specified in clause 9(a), or if this Agreement is terminated by URM due to a breach of any term by the Client, the Client must pay URM within seven days: (i) all Service Fees and any other amounts owed by the Client to URM; (ii) 40% of the Service Fees that would be payable under this Agreement for the unexpired portion of the term (until the next renewal date); and (iii) if the Agreement is repudiated or terminated during the Initial Term, all incentives provided to the Client; without prejudice to any other rights or remedies available to URM.
- (f) The parties agree that the amount payable pursuant to sub-clause 9(e)(ii) represents a genuine pre-estimate of URM's loss and such provision is fair and reasonably required to give commercial certainty to the parties and protect URM's legitimate interests. Such amount is proportionate to the loss that URM would suffer. URM is not required to prove any loss was suffered before it is entitled to enforce sub-clause 9(e)(ii).
- (g) The Client acknowledges that the Service Fees charged to the Client are based on many factors including but not limited to: (i) the duration of the Initial Term; (ii) each party's anticipation that the Term of this Agreement will be extended beyond the Initial Term; and (iii) URM's ability to collect and manage waste and other material on a large scale for the benefit of individual clients including the Client. In that context, the Client agrees that if it terminates this Agreement, other than in accordance with clause 9(a), URM will suffer loss and damage.
- (h) The parties each agree that they are of equal bargaining power and that there are other organisations that offer the Services. This clause 9 represents a fair allocation of risk between the parties.
- (i) If this Agreement expires or is terminated and the Equipment is not made available for collection by URM, then the period of this Agreement will be extended from month to month (by one month) on the same terms specified in this Agreement provided that such extended period may be terminated by URM at any time or by the Client by delivering the Equipment to URM. URM is not obliged to provide the Services during such extended period.

10. GUARANTEE

- (a) If the Client is a corporation, a director of the Client must personally guarantee the performance of the Client's obligations under this Agreement and the person specified to be a 'guarantor' in the Schedule will be deemed to be a guarantor for the purposes of this clause 10 (Guarantor). The Guarantor, in consideration for URM entering into this Agreement:
 - (i) unconditionally and irrevocably guarantees the payment of all Service Fees and other money payable by the Client to URM under this Agreement and unconditionally and irrevocably guarantees the due performance of the Client's obligations under this Agreement;
 - (ii) agrees that the Guarantor's obligations will not be released due to any legal disability of any person, by any neglect or forbearance of URM to enforce the terms of this Agreement or this guarantee, or by URM granting any time concession or indulgence to, or making any composition with the Client, or waiving any breach or default by the Client;
 - (iii) must pay URM's reasonable costs of enforcing this guarantee;
 - (iv) agrees that this guarantee is a primary obligation and URM need not take action against the Client or any other person before enforcing this guarantee; and
 - (v) agrees that this guarantee is independent of and not in substitution for or affected by another security interest or guarantee or other document or agreement which the Client or another person may hold with respect to this Agreement.
- (b) The Client and the Guarantor each separately agree to act in accordance with the terms of this clause 10.



UNITED RESOURCE MANAGEMENT



(c) If for any reason a Guarantor has not signed this Agreement with respect to a corporate Client, the officer that has executed this Agreement on behalf of the Company is deemed to have also executed this document in his or her personal capacity as Guarantor.

11. CONSUMERS AND SMALL BUSINESSES

This Clause 11 applies in circumstances where this agreement is a consumer contract or a small business contract pursuant to the Australian Consumer Law:

- (a) The Client is entitled to receive written notice that the 120-day notice period window identified in Clause 3(c) above has commenced. If URM does not provide such notice, and the contract is renewed pursuant to Clause 3 above, then the consumer or small business may terminate the Agreement by giving 90 days' written notice.
- (b) If the Agreement has been renewed in accordance with Clause 3, and the Client provides evidence of a bona fide offer in respect of service fees, then:
 - (i) URM must be given the opportunity to match that price for service fees to be rendered (to be determined within seven days of being provided with the bona fide offer); and
 - (ii) If URM is not prepared to match that price, then the Client shall be entitled to terminate the agreement with 14 days' written notice.

For the avoidance of doubt: a "bona fide offer" means an offer that is above cost and one which does not have uncompetitive discounts or incentives factored into the service fee price; and matching a price does not require URM to discount for past services rendered.

(c) The percentage amount identified in Clause 9(e)(ii) is reduced from 40% to 30%.

12. ASSIGNMENT, NOVATION AND SEVERABILITY

- (a) The Client may not assign, sub-licence, sub-contract, encumber or otherwise transfer or dispose of this Agreement or any of its rights or obligations under it without the prior written consent of URM.
- (b) URM may assign, sub-licence, sub-contract, encumber or otherwise transfer or dispose of this Agreement or any of its rights or obligations under it, including its rights and interests in the Equipment, and the Client hereby provides its prospective consent to the same.
- (c) If a term or part of a term of this Agreement is declared illegal or unenforceable by any court or authority, that term or part must be severed from this Agreement and the remaining terms or parts of such terms continue in force.

13. ENTIRE AGREEMENT AND WAIVER

- (a) This Agreement contains the entire agreement between the parties as to its subject matter and supersedes any previous arrangements, agreements, deeds, representations, understandings or statements (whether oral or written).
- (b) A waiver of any provision of this Agreement, or consent to any departure by a party from any provision of this Agreement, must be in writing and is effective only to the extent for which it is given.
- (c) The failure, delay or omission by a party to exercise any power or right conferred upon it by this Agreement will not operate as a waiver of such power or right, nor will any single exercise of any such power or right preclude any other future exercise of the power, or the exercise of any other power or right under this Agreement.
- (d) Each party represents and warrants that it has the right and authority to enter into and fully perform its obligations under this Agreement and the performance of its obligations will not violate any agreement or arrangement to which such party is bound to observe.

14. CONSTRUCTION, INDEPENDENT LEGAL ADVICE AND GOVERNING LAW

- (a) The provisions of this Agreement that by their terms or sense are intended to survive the expiration or termination of this Agreement survive the expiration or termination of this Agreement.
- (b) No rules of construction shall apply to the disadvantage of the party that has prepared this Agreement or any part thereof.
- (c) This Agreement may be amended only in writing. Each party must pay its own costs of negotiating, preparing and executing this Agreement.
- (d) Unless otherwise specified, if any clause of this Agreement requires a party to give its consent, such consent may be given conditionally or unconditionally or withheld at the absolute discretion of that party.
- (e) Each party warrants that it has been given the opportunity to seek independent legal advice in relation to this Agreement, and that it has either received such advice or declined to receive it, and in either event freely enters into this Agreement in complete understanding of all of its terms and the effect of its terms.
- (f) The relationship between the parties is intended to be, and is to be construed as, that of independent contracting parties only and not that of employment, partnership, joint venture, agency or any other association whatsoever.
- (g) This Agreement is governed by the laws of New South Wales and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of that state and their appellate courts.

15. NOTICE

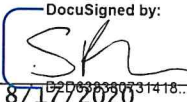

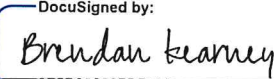
- (a) Any notices which either party may give or be required to give to each other under this Agreement may be delivered by hand, by mail or by e-mail. Parties agree that service by email in relation to this Agreement is acceptable unless a different method of service is required by law.
- (b) A notice under this Agreement is deemed to be served: (i) if hand delivered, on delivery; (ii) if sent by prepaid post, two business days after the date of posting; and if sent by email, when the sender's email system generates a message confirming successful transmission of the entire email, but if the delivery, receipt or transmission is not on a business day or is after 5.00pm on a business day, the notice is taken to be received at 9.00am on the next business day.

Terms & Conditions Amendments or Notes



UNITED RESOURCE MANAGEMENT



CONFIRMATION	
Customer	
Customer Name:	Shaun Pereira
Position:	director
Signature:	DocuSigned by: 
Date:	8/17/2020
Guarantor	
Guarantor Name:	
Guarantor Drivers Lic No:	
Guarantor Signature:	
Date:	
URM Representative	
URM Representative Name:	Brett Rex
Signature:	DocuSigned by: 
Date:	8/17/2020
URM Management	
Reviewed and approved by:	Brendan Kearney
Signature:	DocuSigned by: 
Date:	8/17/2020