

# BRE SMARTWASTE

## BRE SMARTWaste Terms and Conditions

February 2015

By logging in and using this website and all tools/services within, you agree to these terms and conditions of use.

### **IMPORTANT NOTICE TO ALL USERS:**

- BY CLICKING ON THE "ACCEPT" BUTTON BELOW, OR SIGNING AND RETURNING A COPY OF THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT WHICH WILL BIND YOU AND YOUR EMPLOYEES/AGENTS. THE TERMS OF THIS LICENCE INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN SECTION 10.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, WE WILL NOT PROVIDE THE SERVICES TO YOU, AND YOU MUST DISCONTINUE THE PROCESS NOW BY CLICKING ON THE "CANCEL" BUTTON BELOW. IN THIS CASE PROCESS WILL TERMINATE AND YOU WILL NOT GAIN ACCESS TO THE SERVICES.

These terms and conditions (the "Agreement") apply as between the User of the Services and the Website referred to herein and Building Research Establishment Limited ("BRE"), the provider of the Services and this Website () Your agreement to comply with and be bound by these terms and conditions, and to grant us any and all licences required, is deemed to occur upon your Acceptance of these terms and conditions prior to your first use of the Services and the Website.

The following interpretations apply within these terms and conditions:

BRE ("SMARTWaste", "We", "we" or "us") is committed to providing an excellent user experience. In order to provide this Website and the Services to you, you agree to be legally bound by the terms and conditions contained herein.

"Content" means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that appears on or forms part of the Website.

"SMARTWaste Member" means a paid up User accessing the SMARTWaste tool via the SMARTWASTE membership scheme.

"User" means you or any party associated with you (via employment, agency, or otherwise) that accesses the Website and the Services under license from us.

"Website" means the SMARTWaste website, which has the following URL:  
<http://www.smartwaste.co.uk>

## 1 ACCESSING SMARTWASTE SERVICES

1.1 Acceptance. User access to the Website ) and the SMARTWaste tool,, and subsequent purchase of any product therefrom via web, personal computer, mobile device, connected device or otherwise (collectively the "Services") is expressly conditioned on your compliance with and acceptance, via click-to-accept protocol as indicated on the Website (or returned signed copy where applicable), of these terms and conditions ("Acceptance"). If you do not agree to be bound by these terms and conditions you must cease accessing or using the Services.

1.2 Additional Applicable Terms. Services operated by third parties for BRE may also have additional terms to which you will be bound. It is your responsibility to read and understand any terms and conditions that apply to your use of these third party websites and/or services.

1.3 Right to Amend Terms. BRE reserves the right, in its sole discretion, to change, modify, add, or delete portions of these terms and conditions at any time. If we do this, we will post the changes to these terms and conditions on the Website, and will indicate the effective date upon which any changes will apply. All Users will be notified of any changes to the terms and conditions via email and/or the SMARTWaste tool, where applicable. If you do not agree to (or cannot comply with) the terms and conditions as amended, you must cease using the Services and cease accessing the SMARTWaste Member section of the Website. Your continued use of the Services after any such changes serves as your acquiescence and indicates your acceptance of the newly amended terms and conditions.

## 2. ACCESS TO SERVICES

2.1 The User represents and warrants that they have the authority to enter into the Agreement (and where they are not directly entering into the Agreement, they have delegated authority as an agent or employee of a SMARTWaste Member), to use the Services, and to perform any and all acts as may be necessary under these terms and conditions.

2.2 If the User is unable to comply with the requirements of Clause 2.1 they shall be prohibited from using the Services and must not accept these terms and conditions.

2.3 In order to use the Services and to submit or create Content, Users are required to create an account ("Account") and to submit certain personal details. By accepting these terms and conditions the User represents and warrants that:

(a) any information that is submitted is accurate and truthful;

(b) all such information will be kept accurate and up-to-date; and

(c) the means by which they identify themselves does not violate any part of these terms and conditions or any applicable laws.

2.4 If the User has reason to believe that their Account details have been obtained by a third party without their consent, the User should contact BRE immediately to suspend their Account and

cancel any unauthorised orders or payments that may be pending. Users should be aware that orders or payments can only be cancelled up until the point at which the Services are used for the first time through that particular Account. In the event that unauthorised use is made prior to the User notifying BRE of the unauthorised nature of the order or payment, BRE will suspend access to the Services and the withdrawal of any scheduled payments pending investigation. Following investigation, it shall be determined, at BRE's sole discretion, whether or not to cancel access to the Services and make a full or partial refund of the payment to the User.

2.5 The terms of Clause 2.4 shall apply notwithstanding any related provisions in Clause 9 (Termination).

### 3 THE SERVICES

3.1 Services. SMARTWaste is a suite of tools and services for measuring and monitoring waste arising as well as other impacts which can be catered to specific industry, company and project needs.

3.2 Intended Use Only. The Services are for the permitted use only and may not be re-sold or re-licensed for commercial gain.

3.3 Links. The Services may contain links to third party websites or services. You acknowledge and agree that SMARTWaste is not responsible or liable for: (i) the availability or accuracy of such websites or services; or (ii) the content, products, or services on or available from such websites or services. Links to such websites or services do not imply any endorsement by SMARTWaste of such websites or services or the content, products, or services available from them. You acknowledge your acceptance of sole responsibility for, and assume all risk arising from, your use of any such websites or services.

3.4 BRE shall make reasonable endeavours to provide the Services on an error-free basis and without interruption.

3.5 Notwithstanding Clause 3.4, BRE does not provide any guarantee that provision of the Services shall be error-free or without interruption and reserves the right to alter or suspend provision of the Services without prior notice to Users. By accepting these terms and conditions the User acknowledges that the Services may change in form or nature at any time.

3.6 BRE shall have the right, exercisable at its sole discretion, to terminate provision of the Services with 3 months' prior notice to Users.

3.7 BRE will provide support services on business days between the hours of 9.00 am and 5.00 pm (GMT) for the purposes of providing assistance on how to use the Services.

3.7.1 The cost of Support Services is included within the Annual Maintenance Fees, is provided for BRE software only, and excludes technical support relating to your network, desktop and operating systems.

3.7.2 You are required to set up Users and it is only these Users who have authority to request Support Services and it is only through these Users that BRE will co-ordinate Support Services for

you. You shall ensure that the Users have attended the appropriate published BRE Software training courses to enable proper liaison between BRE and you.

3.8 Notwithstanding BRE's right to perform any of the actions detailed in this Clause without prior notice, BRE shall make reasonable endeavours to provide such notice whenever possible.

## 4. SUBSCRIPTIONS

4.1 Subscription charges commence on the date that the User activates their subscription.

4.2 The first payment will be at the price advertised on the Website. BRE reserves the right to change Subscription Fees from time to time and any such changes may affect Users' subscription rates.

4.3 Increases in price will be reflected in the User's subscription on the date of the immediately subsequent renewal.

4.4 Decreases in price will be reflected in the User's subscription on the date of the immediately subsequent renewal.

4.5 If a User terminates their subscription or Account they will continue to have access to the Services for the remainder of the prevailing Subscription Period up until the renewal date whereupon access will cease unless the User chooses to pay the Subscription Fee to reactivate their subscription.

4.6 If a User subscribes in error they must inform BRE within 24 hours of subscribing and must not use the Services during that time. If any use can be traced to the User's Account, no refund will be provided.

## 5. PRIVACY POLICY

5.1 BRE recognises that your privacy is very important and that it is your right to control your personal information. BRE understands that providing personal information is an act of trust and we take that trust seriously.

5.2 Personal Information. If you register for any of the Services you will be asked to provide basic personal information. The information is used solely for notifying you of changes or updates to the Services. BRE will never sell, rent or otherwise disclose any of your personal information, including your email address, to any third party without your consent unless: 1) we are required to by law; or 2) if it is necessary to provide the Services.

5.3 Communications from Us and Mailing Lists. To keep you informed about the operation of the Services, BRE may send service announcements to the email address you provided during registration. BRE may also allow you to choose whether to receive mailings from selected partners that may be of interest to you. Such lists are strictly optional and may be unsubscribed from at any time.

5.4 Payment Information. If you pay BRE for the Services, your payment information will only be used to check that it is a valid method of payment and to process your payment. No payment information is kept by BRE other than to facilitate the provision of the Services to you (for example, storing your credit or debit card number for quick payment). You will always be able to remove any such stored payment details.

5.5 Your Rights. If you are a registered User, you have certain rights under the 1998 Data Protection Act. You have the right to be told what personal information is held about you on our database. Should you wish to exercise that right, or if you have any questions concerning the SMARTWaste privacy policy, please write to: [smartwaste@bre.co.uk](mailto:smartwaste@bre.co.uk).

5.6 Cookies. SMARTWaste uses a technology called “cookies” as part of our normal business procedure to enhance the user experience and to track patterns of behavior of visitors to the Website. A cookie is an element of data that a website sends to your browser that is then stored on your system. You can set your browser to prevent this happening. Any information collected in this way can be used to identify you unless you change your browser settings. These cookies collect information about how visitors use a website, for instance which pages visitors go to most often, and if they get error messages from web pages. These cookies are not used to intentionally collect information that identifies a visitor. All information these cookies collect is aggregated and therefore anonymous. It is only used to improve how a website works. By using our Website, you agree that we can place these types of cookies on your device.

5.7 Aggregated Information. From time to time BRE may use the aggregated User data to determine performance indicators such as:

- Environmental Performance Indicator (EPI): m3/tonnage of waste /100m2 of floor area (as an actual and bulk volume; and
- Key Performance Indicator (KPI); m3/tonnage of waste/£100,000 of project value

This data will only be used at the aggregated level and will never enable company or project level information to be disclosed.

5.8 Security. BRE has implemented technology and security features, as well as strict internal guidelines, to safeguard the privacy of your personal information from unauthorized access or improper use. All stored data is securely managed with data management policies designed to be able to recover from disasters with only 24 hour (during working days, and used as a guideline only, with no warranty regarding data recovery provided by BRE in these terms and conditions) data loss. The data is not available for use or accessible by anyone apart from the registered User and BRE staff involved in the project.

## 6 USER ACCOUNT, PASSWORD AND SECURITY

6.1 Password Security. If a particular Service requires you to open an account you will complete a registration process by providing certain information and registering a username and password (“Credentials”) for use with that Service. You are responsible for maintaining the confidentiality of your Credentials. You are not authorised to share your Credentials with any other person. You may

have a credit card or other payment method stored with BRE and if your Credentials are used by a third party (whether or not authorised) the third party will be able to make purchases with that payment method. You will be fully liable for any actions made with your Credentials. BRE advises you to change your password frequently and to always keep it secure.

6.2 Unauthorized Access. You agree to immediately notify us of any unauthorised use of your Credentials or any other breach of security. In no event will BRE be liable for any indirect or consequential loss or damage resulting from the disclosure of your Credentials. If you believe someone has accessed any Service using your Credentials without your authorisation, it is your responsibility to set up a new password or contact BRE's customer services department to delete your account.

## 7 PERMITTED USE OF SMARTWASTE

7.1 SMARTWaste Membership. There is currently a membership scheme relating to the use of Services contained within the SMARTWaste tool. For more details please refer to the membership pages on our Website available [Here](#)

(i) No User is permitted to use SMARTWaste for financial gain or as part of a paid- for services offering: for example by offering environmental, waste management or construction consultancy to contractors, clients and/or waste companies.

(ii) Any Consultancy or similar organization who wishes to use SMARTWaste as part of a paid-for service offering must contact SMARTWaste ([smartwaste@bre.co.uk](mailto:smartwaste@bre.co.uk)) whereby the appropriate membership package will be discussed based on the level of anticipated usage.

### 7.2 Content Usage Rules.

(i) You are authorised to use the Content only for the intended use, and not for redistribution, transfer, assignment or sublicense, to the extent permitted by law.

(ii) You agree that you will not attempt to, or encourage or assist any other person to, circumvent or modify any security technology or software that is part of the Service or used to administer the conditions of use ("Usage Rules"). You agree not to attempt to, or assist another person to, circumvent, reverse-engineer, decompile, disassemble, or otherwise tamper with any of the security components related to such software for any reason whatsoever.

(iii) The delivery of Content does not transfer to you any commercial or promotional use rights in same.

You agree that your purchase of Content constitutes your acceptance of and agreement to use such Content in accordance with the Usage Rules and the terms of any written agreement between you and us, and that any other use of the Content may constitute a copyright infringement. Any security technology, if applicable, is an inseparable part of the Content. The Usage Rules shall govern your rights with respect to the Content. SMARTWaste reserves the right to modify the Usage Rules at any time.

## 7.3 Use of the Services. You agree not to:

- (i) use any information, Content or material in any manner that infringes any copyright, trademark, patent or other proprietary right of any party;
- (ii) make available or attempt to upload any files that contain a virus, worm, trojan or corrupt data that may damage the operation of the computer or property of another;
- (iii) impersonate any person or entity for the purpose of misleading others;
- (iv) violate any applicable laws or regulations;
- (v) use the Services in any manner that could damage, disable, overburden or impair the Services or interfere with any other party's use and enjoyment of the Services;
- (vi) attempt to gain unauthorised access to any of the Services, other accounts, computer systems or networks connected to the Services through hacking, password mining or any other means.

## 8. User Content and Intellectual Property

8.1 When using the Services to create Content, Users should do so in accordance with the following rules:

8.1.1 Users must not submit Content that is unlawful or otherwise objectionable. This includes, but is not limited to, Content that is abusive, threatening, harassing, defamatory or fraudulent;

8.1.2 Users must not submit Content that is intended to promote or incite violence;

8.1.3 Users must not submit Content that may contain viruses or any other software or instructions that may damage or disrupt other software, computer hardware or communications networks;

8.1.4 Users must not post links to other websites containing any of the above types of Content;

8.1.5 Users must not engage in any form of commercial advertising. This does not prohibit references to businesses for non-promotional purposes including references where advertising may be incidental;

8.1.6 Users must not impersonate other people, particularly employees and representatives of BRE or our affiliates;

8.1.7 Users must not use the Services for unauthorised mass-communication such as "spam" or "junk mail".

8.2 BRE has the right, but not the obligation to pre or post-screen Content submitted or created by Users and may flag or filter any Content that it deems appropriate.

8.3 If any Content is found to be in breach of these terms and conditions, BRE reserves the right to remove it without notice and may, at its sole discretion, terminate the responsible User's access to the Services.

8.4 Users acknowledge that they may be exposed to Content that they may find offensive. If a User believes that such Content is in violation of these terms and conditions, it should be reported to BRE using the SMARTWaste email box: [smartwaste@bre.co.uk](mailto:smartwaste@bre.co.uk)

8.5 Users are solely responsible for any and all Content that they submit or create. BRE does not endorse, support, represent or otherwise guarantee the accuracy or reliability of such Content.

8.6 Subject to Clause 8.4, Users use the Services at their own risk.

8.7 By submitting or creating Content Users warrant and represent that they are the author of such Content and/or that they have acquired all of the appropriate rights and/or permissions to use the Content in this fashion. BRE accepts no responsibility or liability for any infringement of third party rights by such Content. Further, Users waive all moral rights in any and all Content that they submit or create to be named as its author. BRE accepts no responsibility or liability for any infringement of third party rights by such Content.

8.8 By accepting these terms and conditions, the User grants a non-exclusive, worldwide, perpetual licence to BRE subject to the source data, both in terms of the person or the organisation entering the data and the address to which the Content relates, being kept anonymous (i) to use the Content for any purpose and (ii) to copy, distribute, transmit, publicly display, publicly perform, transmit and reformat all Content for the purpose of providing the Services.

8.9 The User represents and warrants that they have all necessary rights, power and authority to grant the licence described in Clause 8.8.

## 9 TERMINATION

9.1 The term of the Agreement shall commence upon the User's Acceptance of these terms and conditions and shall continue until terminated either by the User or by BRE in accordance with this Clause 9.

9.2 If a User wishes to terminate the Agreement they may do so by:

(a) Closing their Account; and

(b) Informing BRE in writing that they wish to terminate this Agreement.

9.3 BRE reserves the right to terminate the Agreement, a User's Account and a User's access to the Services at any time for the following reasons:

9.3.1 The User has committed a material breach of these terms and conditions, unless such breach is capable of remedy, in which case the right to terminate immediately will be exercisable if the User fails to remedy the breach within 14 days after a written notice to do so;

9.3.2 The User has indicated, expressly or impliedly, that they do not intend to or are unable to comply with these terms and conditions;

9.3.3 BRE is required to do so by law;



9.3.4 It has become, in the opinion of BRE, its affiliates or advisers, no longer commercially viable to continue providing the Services; or

9.3.5 BRE is no longer providing the Services in the User's country of residence.

9.4 If BRE terminates a User's Account as a result of the User's breach of these terms and conditions the User will not be entitled to any refund.

9.5 If BRE terminates a User's Account or subscription for any reason other than for breach of these terms and conditions by the User, the User will be refunded any remaining balance of their Subscription Fee. Such a refund will be calculated based upon the fee being divided by the number of days in the applicable Subscription Period and multiplied by the number of days remaining until the end of the Subscription Period.

9.6 In the event that BRE terminates a User's Account or subscription, the User will cease to have access to the Services from the date of termination.

9.7 If the User terminates their Account or subscription, they will continue to have access to the Services for the remainder of the prevailing Subscription Period, termination becoming effective at the end of that Subscription Period.

9.8 In the event that the Agreement is terminated, the User's Account will be closed and their access to the Services suspended in accordance with Clauses 9.6 and 9.7.

9.9 Upon termination of the Agreement, the User shall cease to be bound by all obligations set out in these terms and conditions with the exception of those expressly stated to survive the termination of the Agreement.

## 10. LIABILITY

10.1 BRE does not accept any responsibility for any loss or damage including, without limitation, indirect or consequential loss or damage, or any loss or damages whatsoever arising from use or loss of use of, data or profits arising out of or in connection with the use of the Services, the SMARTWaste tool or the Website.

10.2 BRE is not responsible for the contents or reliability of the linked websites and does not necessarily endorse the views expressed within them. Listing shall not be taken as endorsement of any kind.

10.3 Users should be aware that they use the Website, the Services and all relevant Content at their own risk.

10.4 Nothing in these terms and conditions excludes or restricts BRE's liability for death or personal injury resulting from any negligence or fraud on the part of BRE.

## 11. Availability of the Website and the Services

11.1 The Website and the Services are provided "as is" and on an "as available" basis. BRE gives no warranty that the Website or the Services will be free of defects and/or faults. To the maximum

extent permitted by law BRE provides no warranties (express or implied) of fitness for a particular purpose, accuracy of information, compatibility and satisfactory quality.

11.2 BRE accepts no liability for any disruption or non-availability of the Website or the Services resulting from external causes including, but not limited to, ISP equipment failure, host equipment failure, communications network failure, power failure, natural events, acts of war or legal restrictions and censorship.

## 12. INTELLECTUAL PROPERTY

12.1 Where expressly indicated, certain Content, such as advertising material, and the Intellectual Property rights subsisting therein belong to other parties. This Content, unless expressly stated to be so, is not covered by any permission granted by this clause to use the Content from the Website. Any such Content will be accompanied by a notice providing the contact details of the owner and any separate use policy that may be relevant.

12.2 Subject to the exceptions in Clause 12.1 of these terms and conditions, all intellectual property rights in and to the Services and its Content included on the Website, unless submitted or created by Users, including, but not limited to, 'BRE', 'BREEAM', 'Ecohomes', 'LCPB', 'SMARTWaste', 'Smartlife', text, graphics, logos, icons, images, sound clips, video clips, data compilations, page layout, underlying code and software is owned, with full and complete title, by BRE, its affiliates or other relevant third parties. By accepting these terms and conditions the User acknowledges that such material is protected by applicable United Kingdom and International intellectual property laws and all other relevant statutes and regulations.

12.3 Users may not reproduce, copy, distribute, store or in any other fashion re-use material from the Website unless otherwise indicated on the Website or unless given express written permission to do so by BRE.

## 13 Invoicing

13.1 BRE shall be entitled to invoice the User immediately upon subscribing to Services.

13.2 All sums payable to BRE shall be paid by the User (together with any applicable Value Added Tax, and without any set-off or other deduction) in advance of activation of the SMARTWaste Membership.. Where BRE invoices for any other related services, payment must be made within 30 days of the date of the invoice. In the case of late payment, and without prejudice to any other of its rights, BRE reserves the right to suspend the User's Account until payment has been received.

13.3 If payment is not made by the due date, BRE will exercise its statutory right to claim interest and compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debt Regulations 2002.

## 14. SEVERANCE

14.1 If any of these terms and conditions should be determined to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction then such term or condition

shall be severed and the remaining terms and conditions shall survive and remain in full force and effect and continue to be binding and enforceable.

## 15 GOVERNING LAW

15.1 These terms and conditions, the Agreement and all other aspects of the relationship between the User and BRE shall be governed by and construed in accordance with the Laws of England and Wales.

15.2 Any dispute between the User and BRE relating to these terms and conditions, the Agreement and all other aspects of the relationship shall fall within the exclusive jurisdiction of the courts of England and Wales.

## 16 NOTICES

16.1 A notice to be given hereunder shall be in writing and may be delivered personally or by sending it by pre-paid first class post or facsimile to the intended recipient's address given herein or to any other address supplied with reference to and in accordance with this clause to the other party hereto at their address for the purposes of service under these terms and conditions. A notice delivered personally shall be deemed to have been served on delivery. A notice sent by post shall be deemed to have been served at an address within the United Kingdom at the expiry of 48 hours from the date of posting and at an address outside the United Kingdom at the expiry of 72 hours from the date of posting. Where any notice is given by facsimile service of the same shall be deemed to be effected upon receipt of the normal confirmation of receipt.

Business particulars:

Building Research Establishment Ltd (trading as BRE)  
Registered under number 3319324 in England and Wales  
VAT Registration No GB 689 9499 27

Building Research Establishment Ltd is a subsidiary of the BRE Trust.  
BRE Trust is registered under number 3282856 in England and Wales, and registered as a charity (No 1092193). [www.bretrust.org.uk](http://www.bretrust.org.uk)

Registered Offices:

Bucknalls Lane, Garston, Watford, Hertfordshire WD25 9XX, UK  
Telephone +44 (0)333 321 8811

## SIGNATURE (HARD COPY ONLY)

I \_\_\_\_\_, (and where applicable, on behalf of \_\_\_\_\_) hereby accept and agree to be bound by these terms and conditions, comprising the entire Agreement between myself and Building Research Establishment Limited.

Signature \_\_\_\_\_

Dated \_\_\_\_\_