

## **GENERAL TERMS AND CONDITIONS FOR PROVISION OF RECYCLING AND WASTE SERVICES BY FORTUM – 2021**

### **1 GENERAL**

1.1 Waste in these general terms and conditions (hereinafter “General Terms and Conditions”) shall mean ordinary waste and hazardous waste (hereinafter collectively “Waste”), as de-fined in applicable legislation in force.

1.2 These General Terms and Conditions will apply to all ser-vices concerning Waste recycling and treatment (hereinafter the “Services”) performed by Fortum group companies (hereinafter collectively “Fortum”) to the buyer of these services (hereinafter the “Customer”) unless otherwise specifically agreed between the parties in writing. Any terms departing from these General Terms and Conditions indicated in an order placed by the Customer or otherwise will be binding on Fortum only if specifically approved by Fortum in writing.

1.3 The Services delivered by Fortum to the Customer will be defined in writing in the order confirmation issued by Fortum in response to an order placed by the Customer or in a separate agreement. Follow-up orders or new orders may be placed by telephone or email based on an earlier written agreement subject to unchanged conditions. Minimum response time for Fortum is seven (7) business days from the acceptance of the or-der.

1.4 Fortum will be liable for securing that it has all permits re-quired for performance of the Services and that it meets the required statutory qualifications. Fortum undertakes to perform the Services in a professional manner in compliance with its environmental permits and regulatory requirements.

1.5 In addition to the General Terms and Conditions for the provision of services, the Regulation (EC) N:o 1013/2006 of the European parliament and of the Council on shipments of waste and the Basel convention on the control of transboundary movements of hazardous wastes and their disposal and provisions adopted on its basis, will apply to international shipments.

## **A) WASTE RECYCLING AND TREATMENT SERVICES**

### **2 TRANSPORT AND RECEPTION OF WASTE**

2.1 If the Customer delivers Waste to Fortum, the Waste shall be delivered to the place of delivery indicated by Fortum (de-livery term DDP INCOTERMS 2020) at the receiving times indicated by Fortum. The Customer must prepare a movement/transport document conforming to the applicable regulations for each shipment of Waste. Unless otherwise agreed, each shipment is weighed with a weighbridge at Fortum’s receiving point and a weighing certificate will be issued to the Customer. Delivery information requested by Fortum must be indicated on the packages in addition to the regulatory markings.

2.2 If Fortum collects the Customer’s Waste from a place indicated by the latter, the delivery term used is FCA INCOTERMS 2020.

2.3 The Customer is obligated to inform Fortum of the estimated amount of Waste in each shipment including accurate data on the composition and detrimental or hazardous properties of the Waste prior to the commencement of the service and when the Waste is delivered.

2.4 In case a reasonable cause exists, Fortum has the right to refuse to take delivery of Waste from the Customer. The following causes are, inter alia, regarded as reasonable:

- the data provided on the Waste is inaccurate or incomplete and the Waste cannot, in Fortum’s considered view, be treated safely in compliance with the law and regulatory requirements at Fortum’s facility.

- the Customer has outstanding payments to Fortum or it becomes clear, for whatever reason, that Fortum will not receive full payment for Services delivered to the Customer or for other claims

- the delivery is not packaged and marked in accordance with the applicable regulations. Alternatively, Fortum may rectify the defects in packaging and markings on behalf of the Customer and charge the Customer for the cost. The Customer is liable for any costs incurred by Fortum as a result of any incomplete or damaged packaging or missing markings.

2.5 If Fortum is responsible for transporting the Waste, the liability and ownership of any hazardous Waste (and of any Waste that requires a movement/transport document according to the Waste legislation and/or regulation) is transferred to Fortum after loading of the Waste to the vehicle, provided that the amount and composition of the Waste corresponds to what is stated in the agreement and the entries in the movement/transport document, and Fortum has acknowledged the reception of the shipment by making an entry in the movement/transport document. The liability and ownership of ordinary Waste is transferred to Fortum after loading of the Waste on the vehicle, provided that the amount and composition of the Waste corresponds to what is stated in the agreement.

2.6 If the Customer is responsible for transporting the Waste, the liability and ownership of hazardous Waste (and of Waste that requires a movement/transport document according to the Waste legislation and/or regulation) is transferred to Fortum after unloading of the Waste from the vehicle, provided that the amount and composition of the Waste corresponds to what is stated in the agreement and the entries in the movement/transport document, and Fortum has acknowledged the reception of the shipment by making an entry in the movement/transport document. The liability and ownership of ordinary Waste is transferred to Fortum after unloading of the Waste from the vehicle, provided that the amount and composition of the Waste corresponds to what is stated in the agreement and the entries in the movement/transport document.

2.7 In the situations referred to in Sections 2.5 and 2.6, if, after the receipt of Waste, it appears that the data on the Waste given by the Customer is inaccurate and/or incomplete and/or the Waste does not correspond to what is stated in the agreement and/or the entries in the movement/transport document, Fortum is entitled to recover costs incurred due to the inaccurate and/or incomplete data provided by the Customer.

2.8 Fortum does not receive radioactive waste or explosives.

### 3 SAMPLING AND PROCESSING OF THE WASTE

3.1 Upon the arrival of a shipment of Waste at the treatment facility, Fortum may, at its discretion, take samples from it and/or document possible quality deviations. If the results of the analysis and the data on the Waste provided by the Customer differ, the Customer is entitled to have the sample reanalysed at its own cost by a duly approved research facility.

2

#### Recycling & Waste 2021

If the result of the re-analysis commissioned by the Customer is within the margin of error of the analysis method used, the analysis result obtained by Fortum will prevail.

3.2 The weighing, inspection, and potential sampling of the Waste shipment on receiving will not impact on the Customer's regulatory liability or responsibility for the accuracy and completeness of the data provided on the Waste.

3.3 Unless otherwise specifically agreed, any amount of Waste due for treatment indicated in the order or agreement is an estimate and not binding on Fortum. Fortum may, at any point, suspend reception of Waste without any liability for damages. The Customer must be notified of any such suspension as soon as possible, but no later than five (5) days in advance. Such suspension will apply to all Waste shipments not confirmed in writing and not dispatched to Fortum before the effective date of the suspension.

3.4 Upon completion of hazardous waste treatment Fortum will, subject to a charge, issue a treatment certificate at the Customer's request unless the waste treatment falls into the scope of the EU Regulation on shipments of waste (N:o 1013/2006), in which case the treatment certificate is given free of charge.

## B) OTHER SERVICES

### 4 TRANSPORTATION

4.1 If Fortum is providing transportation as a part of the Services, the liability for the Waste during transportation is determined in accordance with the applicable legislation and/or regulation.

4.2 The Customer shall, without any cost for Fortum, participate in the loading of the vehicle, using the Customer's machinery, equipment or utilities free of charge.

4.3 Fortum may prepare any movement/transport document in accordance with information provided by the Customer. Responsibility for preparing any necessary movement/transport document remains with the Customer. After loading, the Customer shall confirm the movement/transport document with its name and signature.

## **5 RENTAL AND SALE OF CONTAINERS AND OTHER EQUIPMENT**

5.1 Fortum can rent and/or sell empty containers, packages and tanks (hereinafter the “Containers”) to the Customer for the storage and/or transportation of Waste. If the Customer does not notify Fortum of any irregularities or defects in the Containers in writing upon delivery or immediately after realizing the irregularity or defect, the Containers are deemed received by the Customer intact and in the condition specified in the order. Fortum will retain ownership of the rented Containers. The Customer shall not have the right to assign, transfer or otherwise confer any right to any rented Container to a third party, without Fortum’s written approval.

5.2 Fortum will be responsible for ensuring that, upon commencement of the rental period or at the time of sale, the Containers bear the regulatory markings indicating any type approval and the service life required by law. The Customer will immediately notify Fortum of the need to replace a rented or purchased Container, if the stipulated service life of a Container is about to expire, for example, because the markings on the Container are becoming obsolete.

5.3 The Customer will be liable for any damage to a rented Container (e.g. due to corrosion or other mechanical damage) as long as it remains in the Customer’s possession. The Customer will not be liable for any normal wear and tear of a rented Container. Any damaged rented Container must be returned by the Customer to Fortum for repair or treatment and ex-change.

5.4 The Customer will be liable for ensuring that a rented Container will only be used for the intended purpose and intended substance. The Customer will be liable for ensuring that a rented Container is not damaged or contaminated with chemicals. As a dispatcher of the Waste, the

Customer will be liable for ensuring that the classification and method of packaging of the Waste and the condition and markings of the Container satisfy applicable regulatory requirements. The Customer does not have the right to remove the markings or make any own markings on a rented Container unless the parties have agreed otherwise in writing.

5.5 Return, pick-up and cleaning of reusable Containers and packages are subject to prior agreement.

## **6 SERVICES PROVIDED ON THE CUSTOMER’S SITE**

6.1 In case the entire or part of the Service is performed on the Customer’s site, the Customer is required to inform Fortum of the environmental permits, safety regulations, and other relevant instructions and regulations to be complied with on the Customer’s site. Fortum undertakes to comply with the relevant environmental permits, instructions and regulations while operating on the Customer’s site. The Customer is liable to ensure that the information and instructions given to Fortum for the purpose of providing the Services are accurate and complete and that the site, equipment, accessories, and supplies allocated to Fortum for the provision of the Services are in a condition that satisfies the regulatory requirements. The Customer’s equipment, accessories, and supplies for the performance of the Services on the Customer’s site are to be made available to Fortum free of charge.

6.2 The Customer will be responsible for the occupational safety of its staff. The Customer will be liable for any environmental impacts and damage occurring on the Customer’s site or in its surroundings except if such impact or damage can be shown to have been caused solely by a wilful act or negligence of Fortum.

## **C) GENERAL PROVISIONS**

### **7 PRICE**

7.1 The price for the Services will be determined according to Fortum’s current price list and the weighing and potential sampling and analysis

carried out by Fortum. If the Waste is weighed in Containers that shall not to be returned, the weight of the Container will be included in the total weight of the Waste. The price for transportation is also affected by the volume based weight of the Container. Cost of travel and daily allowance will be charged in accordance with the criteria specified by the National Tax Authority.

7.2 Any price confirmed in connection with the order is binding upon Fortum only if the data provided on the Waste is accurate and complete.

7.3 In conjunction with any emergency type services ordered from Fortum, the Customer is obliged to pay compensation to Fortum for materials, supplies, and working hours used by Fortum's employees even if not specifically identified in the order, provided that such services have been justified and reasonable given the circumstances.

7.4 Value added tax at the applicable rate and any other statutory taxes and charges will be added to all prices.

7.5 If the Services are subject to new taxes, tax increases, charges and/or surcharges that affect Fortum's prices directly or indirectly, Fortum has the right to revise the service prices accordingly.

## **8 TERMS OF PAYMENT AND SECURITY**

8.1 The treatment charge for the Waste will be invoiced by Fortum on reception of the Waste by the treatment facility. All the other services will be invoiced subject to special agreement. The invoices will fall due in fourteen (14) days from the date of the same. Overdue interest is payable in accordance with the applicable Interest Act. In addition Fortum is entitled to claim the Customer for an applicable standard compensation regulated by law due to a late payment as well as all collection charges in excess of such standard compensation. In case the Customer disputes part of an invoice the Customer shall pay the undisputed part of the invoice.

8.2 The Customer who has ordered the service is liable for payment in accordance with the terms of payment defined herein even when the Customer is entitled to compensation from an insurance company, public funds or other sources.

8.3 Fortum may at its own discretion perform a credit evaluation on the Customer. Fortum is

entitled to require at any time, as a precondition for the reception of Waste or performance of any other service, the Customer to provide Fortum with a bank guarantee or other security acceptable to Fortum as surety for the payments due to Fortum. Furthermore, Fortum has the right to require the Customer to make the payments for services in advance.

## **9 SPECIAL OBLIGATIONS AND LIABILITIES OF THE CUSTOMER**

9.1 The Customer is required to comply with the applicable Waste legislation and regulation. The Customer is responsible for ensuring that the Waste is sorted properly and in accordance with the legal and regulatory requirements and that the Waste is not mixed. The Customer ensures and guarantees that each waste shipment conforms exactly to the data submitted to Fortum, what is stated in the agreement and the entries in the movement/transport document.

9.2 The Customer assumes liability in respect of Fortum and any third parties for any loss and damage or costs incurred as a result of any inaccurate or incomplete data provided to Fortum or any inaccurate or incomplete data in the movement/transport document on the Waste or because the Customer otherwise has not complied with the applicable laws, regulations, contractual provisions and/or written instructions issued by Fortum. The Customer is in all aspects liable for its subcontractors.

## **10 DELAY AND DEFECT IN THE PROVISION OF SERVICES**

10.1 The Customer is required to promptly notify Fortum of any defect in the provision of the Service, but no later than five (5) business days from the service performance. If Fortum's act or omission is likely to cause any risk or loss or damage, such a notice must be given immediately. If no itemized claim is filed with Fortum within six (6) months of the date when the defect in the provision of the Service was, or should have been detected, the Customer is deemed to have waived its right to pre-sent any claims invoking such a defect.

10.2 In case of a defect in the provision of Services for which Fortum is liable, Fortum may either remedy the defect or re-imburse the Customer for any direct loss incurred. Fortum's liability for any defect in the provision of Services is limited as provided in Section 11 hereof.

10.3 Treatment of the Waste delivered to Fortum will take place at a time determined by Fortum. If Fortum fails to provide a service at a time specifically agreed between the parties, and provided that the delay is not due to Force Majeure (as defined below) or a reason attributable to the Customer, the Customer will be entitled to liquidated damages equivalent to 0.5% of the price of the delayed Service for each full week of delay; the maximum, however, being 5% of the price of the delayed Service. The Customer will not be entitled to any other compensation for delay than liquidated damages. If the provision of the Service is delayed for reasons attributable to the Customer, the Customer is required to compensate Fortum for any extra cost incurred as a result of such delay.

## 11 FORCE MAJEURE AND LIMITATION OF LIABILITY

11.1 In these General Terms and Conditions, Force Majeure means the occurrence of an event or circumstance that prevents or impedes a party from performing one or more of its contractual obligations under the agreement, if and to the extent that the party affected by the impediment (hereinafter the "Affected Party") proves that such impediment is beyond its reasonable control, that it could not reasonably have been foreseen at the time of the conclusion of the agreement and that the effects of the impediment could not reasonably have been avoided or overcome by the Affected Party. Force Majeure includes but is not limited to: labour conflict, fire, war, mobilisation, act or imminent threat of terrorism, seizure, equipment failure, limitation of or disruption to the supply of energy or telecommunication, pandemic, epidemic, government action or accident. The party wishing to invoke Force Majeure must promptly notify the other party of the onset and cessation of such circumstance in writing.

11.2 Fortum's liability for damage incurred by the Customer as a result of a defect in the provision of the Service is limited to the price charged for the Services involved; the maximum, however, being € 200,000 for each occurrence and 1 million euros for the agreement period. Fortum will not, under any circumstances, be liable for indirect or consequential loss or damage, such as loss of income, sales or markets, suspension of production or service, loss of profit or other comparable loss or damage.

## 12 COMPLIANCE

12.1 The parties confirm and are responsible for the following:

- a) the party has the valid governmental permits required for its operations and it operates in accordance with the governmental permits and the provisions and regulations of the authorities in force at the time;
- b) the party complies with all applicable legal and regulatory requirements in all its operations;
- c) the party, or to the best of the party's knowledge, its directors, officers, attorneys, employees, partners or representatives are not involved in any activities that violate applicable anti-bribery or anticorruption laws or regulations, and does not use child labor or forced labor in its operations;
- d) the party has implemented and maintains procedures that aim to prevent bribery and corruption and the use of child labor or forced labor in the party's operations;
- e) a party must notify to the other party as soon as legally possible of any changes in the previous sub-paragraphs (a - d).

12.2 To ensure compliance with the subparagraphs a - d, a party shall, at its own expense and during the term of the agreement, have the right to inspect the premises as well as the archives and documents of the other party (or any subcontractor), provided that the party has a reasonable cause to require an inspection in order to ensure that the requirements of this Section are met. The inspection must be agreed in advance and must be carried out in accordance with the provisions and regulations of the applicable data protection and competition laws.



12.3 A breach of requirements set out in subparagraphs a) - d) above is considered as a material breach of contract entitling the other party to terminate the agreement immediately without notice, unless the non-breaching party, in its sole discretion, considers the breach to be minor.

### **13 TERMINATION OF THE AGREEMENT**

13.1 A party has the right to terminate the agreement with immediate effect by giving a written termination notice if the other party commits a material breach of agreement and does not remedy the breach within thirty (30) days after having been given a written notice in respect thereof. In addition, Fortum may terminate the agreement with immediate effect by a written termination notice, if (i) the Customer is insolvent or commits an act of bankruptcy or goes or is put into liquidation, goes into restructuring or other similar procedure, or (ii) if the Customer informs or it otherwise becomes evident that the Customer will be fundamentally delayed in any payments.

13.2 Fortum is entitled to immediately terminate the agreement, if the Customer's payment is in delay for more than four-teen (14) days and the Customer has not provided a security acceptable to Fortum as intended in Section 8.3.

13.3 Termination of the agreement shall be without prejudice to the rights and obligations of the parties which have accrued up to the date of termination.

13.4 Fortum has the right to suspend the Services, if the Customer has any outstanding payments to Fortum or the Customer otherwise does not comply with the agreement.

### **14 USE OF SUBCONTRACTORS**

14.1 Fortum has the right to use subcontractors for the provision of Services. Fortum is responsible for its subcontractors' performance under the agreement.

### **15 INSURANCES**

15.1 Fortum maintains an appropriate liability insurance. The Customer is required to obtain adequate insurance for its property, general

liability and business interruption at its own cost. If the Customer does not have such insurance or fails to claim compensation under the insurance, the Customer will be solely responsible for any loss or damage that could have been covered by such insurance.

### **16 CONFIDENTIALITY**

16.1 Fortum and the Customer shall keep the following fully confidential: all material and information, including but not limited to technical, commercial, product, financial or other confidential and proprietary information, documents and software, received from the other party and marked as confidential or which should be understood to be confidential. A party shall have the right to: (a) use the said material and information only for the purposes set forth in the agreement; (b) copy the said material and information only to the extent necessary for the purposes of the agreement; and (c) disclose the said material and information only to those of his employees who need to know the said material and information for the purposes set forth in the agreement. Fortum may further disclose confidential material and information to its suppliers and subcontractors, provided that they agree to be bound by written confidentiality obligations not less restrictive than those provided for herein.

16.2 The confidentiality obligation shall, however, not be applied to any material or information which: (a) is generally available or otherwise public; (b) a party or its affiliated company has rightfully received from a third party without any obligation of confidentiality; (c) was in the possession, as proven by the written records, of the receiving party or its affiliated company prior to receipt of the same from the other party without any obligation of confidentiality related thereto; (d) a party or its affiliated company has developed independently without using material or information received from the other party as proven by written records; or (e) a party or its affiliated company shall disclose pursuant to a law, decree or other order issued by the authorities or judicial order.

16.3 Each party shall cease using confidential material and information received from the other

party promptly upon termination of the agreement or when the party no longer needs the material or information in question for the purpose stated in the agreement. Each party shall, however, be entitled to retain copies required by law or regulations. Each party is entitled to use the feedback and residual knowledge given or acquired in connection with the agreement.

16.4 Affiliated companies, engaged in the performance of the agreement shall not be deemed as third parties on condition that disclosure of confidential material and information occurs on a need to know basis only and that the respective party ensures their full compliance of all of the provisions of this Section.

16.5 The rights and obligations under this Section shall survive the expiry, termination or cancellation of the agreement for a period of three (3) years.

## 17 ASSIGNMENT OF AGREEMENT

17.1 Fortum is entitled to assign the agreement or part of it to another company in the Fortum Group without the approval of the Customer. Any other assignment of the agreement by any party requires the written approval of the other party.

## 18 GOVERNING LAW AND DISPUTE RESOLUTION

18.1 In the event the delivery of Waste to Fortum takes place in Sweden, the agreement shall be construed and governed exclusively in accordance with the laws of Sweden without regard to its choice of law provision. The terms of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the national Sale of Goods Act are excluded. In the event Swedish law is applicable, disputes arising out of the agreement shall be finally settled by arbitration in accordance with the Arbitration Rules of the Institute of the Stockholm Chamber of Commerce. The arbitration tribunal shall consist of one (1) arbitrator. The arbitration shall take place in Stockholm, Sweden.

18.2 In the event the delivery of Waste to Fortum takes place in Denmark, the agreement shall be construed and governed exclusively in accordance with the laws of Denmark, without regard to its

choice of law provision. The terms of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the national Sale of Goods Act are excluded. In the event Danish law is applicable, disputes arising out of the agreement shall be finally settled by arbitration in accordance with the Arbitration Rules of the Danish Institute of Arbitration Commerce (Voldgiftsinstituttet). The arbitration tribunal shall consist of one (1) arbitrator. The arbitration shall take place in Copenhagen, Denmark.

18.3 In the event the delivery of Waste to Fortum takes place in Finland or in another country than Sweden or Denmark, the agreement shall be construed and governed exclusively in accordance with the laws of Finland without regard to its choice of law provision. The terms of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the national Sale of Goods Act are excluded. In the event Finnish law is applicable, disputes arising out of the agreement shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The arbitration tribunal shall consist of one (1) arbitrator. The arbitration shall take place in Helsinki, Finland.

18.4 Any dispute, controversy or claim arising out of or in connection with the agreement including without limitation existence or potential existence of proceedings, actual proceedings, any oral statements made, documents and data submitted, as well as the final award shall be deemed to be confidential material and information as specified herein.

18.5 Despite of the arbitration procedure, Fortum is always entitled to make a motion in order to collect the receivables from the Customer in front of any competent ordinary court.