

General Terms of Service Waste Disposal (“ALB-A”) of the companies of the ALBA Group

§ 1 General information

1. The following General Terms of Service Waste Disposal (“ALB-A”) of the ALBA Group shall apply to all, also future, business relationships between the contractual partner (“Customer”) and the respective commissioned company of the ALBA Group (“Contractor”) (together the “Parties”) in the field of waste disposal. Companies of the ALBA Group within the meaning of these ALB-A are ALBA Europe Holding plc & Co. KG, ALBA Services Holding GmbH, ALBA International Recycling GmbH, ALBA Green Fuel Holding GmbH & Co. KG and the companies affiliated with each of these aforementioned companies according to § 15 AktG [German Companies Act].

2. These ALB-A shall apply exclusively. Contradictory terms and conditions of the Customer or terms and conditions which deviate from these ALB-A shall not be recognised unless the Contractor has explicitly approved their validity in writing. These ALB-A shall also apply if the Contractor carries out the order without reservation in the knowledge of contradictory terms and conditions of the Customer or terms and conditions which deviate from these ALB-A.

3. Individual agreements reached in an individual case (including collateral agreements, supplements and changes) shall in any case have precedence over these ALB-A. A written contract or the written confirmation of the Contractor shall be decisive for the contents of such agreements. Insofar as not otherwise determined in these ALB-A legally relevant declarations and reports, which are to be submitted after conclusion of the contract (e.g. release order of the service, setting of a deadline, termination), require a written form in order to be valid.

4. Offers are without obligation insofar as not otherwise derived from the offer.

§ 2 Services of the Contractor

1. Within the framework of the agreed scope of the order the Contractor will take over all services in the field of the waste disposal industry, e.g. the provision of containers, the exchange or the refilling of the provided containers, the recycling conform with the law and/or the harmless disposal of the waste according to the principles of the waste disposal in the best public interest including the transport, treatment as well as the storage and deposit of waste in compliance with the respective applicable provisions of the recycling and waste management law, the associated sub-legal regulations as well as the regional waste laws.

2. The disposal obligation of the Customer under public, namely the possibly existing provision and tender obligations, waste separation and documentation obligations according to the GewAbfV [German Commercial Waste Act] as well as possible obligations for proof shall remain unaffected by the placement of an order. Fees under public law from federal state-specific or municipal tender obligations of the Customer shall also remain unaffected. All measures, which relate to the Contractor (e.g. owing to an amendment to statutory provisions carried out after conclusion of the contract) in addition to the actual disposal service (e.g. sampling, analysis, other type of recycling), exclusively serve to fulfil the legal obligations of the Customer and are to be remunerated separately by the Customer.

3. The corresponding proof of services, such as e.g. weighing certificates, acceptance certificates, consignment notes, delivery notes, etc., shall remain with the Contractor. The Customer shall be granted the right to inspect the proof of service upon sufficiently justified request. The Contractor has no obligation to issue a waste balance gratuitously, unless otherwise agreed. The proof shall be kept electronically according to the proof regulations. If necessary, the Contractor shall enable the Customer to keep the proof electronically according to a separate agreement on the participation in ALBASigner, the electronic system for the keeping of proof of waste for the companies of the ALBA Group (www.albasigner.de).

4. The Contractor is entitled to have the services to be provided by it carried out in full or in part by a suitable subcontractor. Reference in these ALB-A to the Contractor refer insofar accordingly to this third party.

5. The Contractor is entitled to assign the respective disposal agreement to a subsidiary or holding company of ALBA Group plc & Co. KG without a separate approval of the Customer insofar as it hereby concerns a certified specialist disposal company. The Contractor is further entitled to assign the claims from the business relationship to third parties.

6. The disposal obligation of the Contractor only refers to waste with the agreed condition. If the waste corresponds with the agreed condition the Contractor shall fulfil its statutory disposal obligations by order of the Customer. If the condition of the waste deviates from the contents of the responsible declaration or the agreed condition then the Contractor is entitled to refuse the acceptance and disposal of this waste. If the waste is already in the possession of the Contractor then it can, at its choice, return the waste (i) to the Customer and assert missed profits or (ii) forward it to a proper recycling or disposal by reimbursing the additional costs. The legal responsibility for the waste materials, which are to be recycled or disposed of, shall remain with the Customer in any case. Further rights of the Contractor, e.g. for damages shall remain unaffected.

7. The Contractor is entitled to provide another available container size and, if applicable, to exchange the containers.

§ 3 Duties of the Customer

1. The Customer has to comply with all pre-requisites for a proper disposal of the service conform to the law.

2. The containers are exclusively to be filled with the respectively agreed waste. The Customer shall ensure a pre-sorting of the waste materials according to the agreed waste fractions. The Contractor can examine the provided waste materials to the extent whether they comply with the respectively agreed specifications and quantities. The examination is limited to externally recognisable defects or deviations. Insignificant deviations shall remain out of consideration, however the waste may in no way contain components that are in breach of the specifications, which owing to their high acid content or for other reasons can attack, damage or unusually contaminate rubbish bins, containers, presses or vehicles. § 2 Subclause 6 shall remain unaffected.

3. The take-over of the waste materials presumes the effective declaration of acceptance of the Contractor. The Contractor shall not acquire any ownership to the waste; however the Customer irrevocably authorizes it to sell the waste to a third party at its own account and to assign the ownership to the waste to a third party.

4. The Customer has to confirm the proper provision of the agreed services to the Contractor in writing upon request and to report defects with regard to the disposal within 48 hours after the collection. It thus declares that it agrees that the corresponding protocols of the on-board computers will serve as proof of the collection for the event that the used vehicles are equipped with a module for recording geodata. The Customer has to provide services of the Contractor which were not provided or not carried out properly.

5. The Customer undertakes to enable the assembly of the containers at the agreed location to the extent that the collection, exchange and refilling by the Contractor can be carried out at the customary business hours without impediment, confusion or endangering of persons and materials using the necessary devices and in the shortest possible way. Damages or other changes to objects of the Contractor are to be reported hereto in writing immediately. The Customer shall be liable for damages to containers and technical equipment, which were caused by the Customer itself, its vicarious agents or attributable by third parties. The Customer shall maintain liability insurance with sufficiently high sum insured for such damages, which is to be proven towards the Contractor upon request. If the assembly of the container requires a special use permit then this has to be procured by the Customer; the Customer is also responsible for the compliance with the obligation to secure traffic.

6. The Customer undertakes to inform the Contractor of official orders, which are suitable for influencing the conditions for the service that is to be provided by the Contractor, immediately in writing.

7. The Customer shall bear the costs for waiting times and empty trips for which it is responsible.

8. The waste disposal contract ends with termination of the contract within the existing terms, even if the Customer is giving up his business or a change of ownership might occur.

§ 4 Remuneration and adjustment to remuneration, Adjustment of intervals

1. All agreed prices shall be deemed in Euro plus the statutory value added tax. Special services, which have not been explicitly agreed, however were stipulated by law or initiated by the Customer, can be invoiced separately. In case of type of payment direct debit the Customer shall grant the Contractor an SEPA direct debit mandate. The Pre-Notification concerning the direct debit shall be carried out by no later than one day before the due date and, as a rule, on the invoice that is to be collected. In case of payment type invoice the amount invoiced by the Contractor is due and payable immediately after receipt of the invoice. The total receivables are due and payable immediately in the event of default with more than one liability.

2. The Customer agrees upon receiving an electronic invoice in the form of a PDF-document via e-mail. The customer has the right to object to receiving an electronic invoice at any time, an invoice on paper will then be delivered via post.

3. If the costs upon which the calculation of the agreed remuneration is based increase for services, which are provided after the expiry of four months after the conclusion of the contract, the Contractor can request the adjustment of the agreed remuneration to the new conditions. An increase in the costs within this meaning shall also include increases in recycling or disposal expenses as a result of changes to case law, applicable laws or municipal charges. The adjustment is to be asserted against the Customer in writing. The Customer can object to the request for adjustment in writing within two weeks after receipt. If the Customer fails to file the objection within the deadline, the price adjustment shall be deemed as agreed from the date stated in the price adjustment letter. In the event of the objection in a suitable form and within the deadline the respective last agreed price shall continue to apply. In the event of an objection the Contractor is however entitled to terminate the disposal agreement extraordinarily with a period of notice of one further month, within a period of two months from receipt of the objection letter.

4. § 4 Subclause 3 shall apply also to a onetime contract, provided that the agreed obligation (e.g. waste collection) is to be fulfilled and billed at a later date (at least four months after ordering).

5. § 4 Subclause 3 shall apply accordingly to adjustments of the collection intervals by the Contractor.

6. The Customer shall only be entitled to rights to offsetting and retention if its counter-claim has been determined final and binding, is undisputed or has been recognised by the Contractor in writing. This restriction shall not apply if the counter-claim has its cause in the same contractual relation as the claim itself.

§ 5 Liability

1. The Contractor shall be liable to an unlimited extent:

- for each wilful or grossly negligent cause of damages by a party, one of its legal representatives, employees or vicarious agents;
- in case of a wilful or negligent injury to life, the body or the health; as well as
- for claims according to the Product Liability Act or insofar as one party maliciously failed to report the defect to an object or has assumed an explicit guarantee for the condition of an object.

2. Incidentally the parties shall only be liable in the event of simple negligence with the breach of essential contractual obligations and limited to the typically foreseeable damages. Essential contractual obligations hereby are such contractual obligations, the fulfilment of which makes the proper execution of the contract possible at all and on the compliance with which the other party relied and may rely as a rule. The parties hereby agree that the typically foreseeable damages in case of physical injuries and property damages is a maximum of € 5,000,000.00 and with other financial losses a maximum of € 250,000.00.

3. Further liability is excluded. The aforementioned extent of liability shall also apply to the Contractors liability regarding legal representatives, subcontractors [Erfüllungsgehilfen] and vicarious agents [Verrichtungsgehilfen].

§ 6 Term of contract and termination

1. Insofar as the parties have not agreed that it concerns a one-off order the respective disposal agreement shall be concluded for a period of two years, beginning from the contractually agreed start of the service. It shall respectively be extended by one year if it is not terminated three months before the expiry of the contract.

2. Each party is entitled to a termination without notice if the other party repeatedly breaches the contractual obligations for which it is responsible despite a written warning two times.

§ 7 Force majeure, changes to statutory regulations

1. Delays in the fulfilment of the contract owing to force majeure and owing to events, the causes of which lie beyond the scope of effect of the Contractor, shall entitle the Contractor to postpone the fulfilment of the contract by the duration of the impediment plus a reasonable leadtime. This shall also apply if such events occur during an already existing delay. If the impediment lasts longer than four months the Customer as well as the Contractor are entitled to cancel the contract with regard to the part not yet fulfilled owing to the impediment. The Contractor shall inform the Customer of the start and end of such reasons for an impediment as soon as possible. Deemed as events of force majeure are in particular industrial disputes, serious interferences to transport, e.g. by road blockades, interferences to operation without a fault (e.g. through bad weather conditions) or official measures that cannot be attributed to the respective party.

2. If in case of a regular disposal transport the day of the disposal transport falls on a bank holiday then the Contractor is entitled to carry out the disposal transport within a reasonable period of time before or after the bank holiday. If the special vehicle envisaged for the disposal of the Customer is not available for unforeseeable reasons then the disposal will be carried out subsequently and immediately.

3. Claims for damages for the cases stated in this § 7 are excluded.

§ 8 Deterioration in assets of the Customer

If the Contractor becomes aware of facts after conclusion of the contract, which raise questions about the solvency of the Customer the Contractor is entitled to request full payment or corresponding provision of collateral before the further execution of the order or after the setting of a reasonable period of notice for the full payment or provision of collateral to cancel the contract. Facts, which raise questions about the solvency of the Customer, are in particular sustainable attachments or other enforcement measures and the application for the opening of insolvency proceedings over the assets of the Customer.

§ 9 Final provisions

1. Should individual regulations of these ALB-A be or become invalid in full or in part, this shall have no effect on the validity of the other provisions

2. Changes to these ALB-A will be announced to the Customer in writing or by e-mail and shall be deemed as approved if the Customer does not object to the changed ALB-A within six weeks after the announcement in writing or by e-mail. The Contractor will be informed separately hereof with the announcement of the changes. In the event of a timely objection the originally included ALB-A will continue to apply.

3. The law of the Federal Republic of Germany shall apply exclusively, the UN Convention on Contracts concerning the International Sale of Goods is excluded. The contractual and business language is German.

Given that the Customer is a businessman according to the Handelsgesetzbuch [German Commercial Code] or § 14 BGB [German Civil Code], a company under public law or a special fund under public law, the place of jurisdiction for all disputes from the preparation and execution of contracts is the registered seat of the Contractor.

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