



**General Business Terms and Conditions of  
IAG - Ihlenberger Abfallentsorgungsgesellschaft mbH for the disposal of waste  
(29 March 2019)**

**§ 1 Introduction**

- (1) These General Business Terms and Conditions apply to all contracts and agreements for the disposal, recycling or treatment of waste material suitable for landfill, recycling or other treatment ("Waste Disposal Contract") entered into by IAG - Ihlenberger Abfallentsorgungsgesellschaft mbH ("IAG") and another party ("Customer").
- (2) These General Business Terms and Conditions of IAG apply to contracts entered into with Customers who are businesses pursuant to § 14 German Civil Code (BGB), legal entities under public law, or special assets governed by public law.
- (3) The General Business Terms and Conditions of IAG shall apply exclusively. IAG does not accept contrary or deviating terms and conditions of the Customer, unless IAG has expressly agreed to their applicability in writing. These General Business Terms and Conditions shall also apply, if IAG executes an order without reservations and in full knowledge of contradictory or deviating terms and conditions of the Customer.

**§ 2 Offer and conclusion of contract**

- (1) Unless stated otherwise in the written offer, an offer by IAG is always non-binding up to the moment IAG confirms the order in writing. The prices and rates quoted in the offer are based on the information given in the initial request for an offer.
- (2) The contract is deemed valid from the moment IAG receives a duly signed copy of the Waste Disposal Contract from the Customer, and provided that IAG has obtained all necessary official authorisations and licenses, in particular the waste disposal license. The moment a valid contract is in place, the Customer shall be entitled to deliver waste material to IAG.
- (3) The information provided by the Customer in the Responsible Declaration, and the data in the accompanying documents and analyses referring to the type, properties and pollutant load of the waste material to be disposed of form the basis of the business relationship and thus form an integral part of the Waste Disposal Contract. This also applies to



the details in the waste disposal certificate, and in particular to any special requirements by the authorities.

- (4) The Customer must examine and observe the service and disposal duties of the public waste disposal authorities. The Customer must further observe the requirements of state-approved hazardous waste disposal companies with regard to the analysis and evaluation of the waste material to be disposed (e.g. Niedersächsische Gesellschaft zur Endablagerung von Sonderabfall mbH and Sonderabfallgesellschaft Brandenburg/Berlin mbH).

### **§ 3 Acceptance of waste material**

- (1) It is the responsibility of the Customer to make accurate declarations regarding the waste material, in compliance with the applicable statutory regulations.
- (2) In the Responsible Declaration, the Customer must inform IAG of all facts and other knowledge relevant to the handling and professional assessment of the waste material. In the event of changes in or new findings with regard to the waste material, the Customer must notify IAG without delay. The obligations set out in clauses 1 and 2 apply irrespective of any sampling by IAG.
- (3) When delivering the waste material, the Customer must comply with the applicable statutory regulations, the waste disposal certificate, and the provisions of the respective waste disposal facilities with regard to the properties and the packaging of the material. This includes in particular the freight transport permit and the labelling of the vehicle in accordance with the statutory regulations for the transport of hazardous materials and other associated ordinances. Upon delivery, the driver must carry a valid and complete set of accompanying documents and shipping papers. The Customer must comply with IAG's general terms and conditions for the delivery and acceptance of waste material, and in particular with those that refer to the delivery and acceptance of packed waste material to the Ihlenberg landfill. A copy of these terms and conditions will be made available to the Customer latest at the time of conclusion of the contract. Persons who enter the Ihlenberg site on foot or by vehicle do so at their own risk. The Customer must comply with the safety rules and regulations that apply at the Ihlenberg site. A copy of the relevant document shall be made available to the Customer on request. The instructions of IAG personnel must always be followed.
- (4) IAG shall only be obliged to accept waste material in the agreed quantity from the Customer, if the waste material conforms to the agreed specifications.



- (5) IAG is entitled to carry out tests in order to determine whether the waste material conforms to the specifications agreed under the contract. These tests shall be carried out prior to acceptance of the waste material, and might include radiation measurements. The costs for these tests shall be borne by IAG, unless they reveal that there are deviations from the agreed specifications. In this case, the additional costs incurred by IAG for testing shall be borne by the Customer.
- (6) Should IAG, after acceptance of the waste material, become aware that it does not conform to the specifications, the Customer, if asked to do so, must collect the waste material from its current location and take it back at his own expense. Alternatively, IAG shall be entitled to contract a third party with the return of the waste material to the Customer, or with its disposal. IAG shall also have the right to seize the waste material. All costs arising from such actions shall be borne by the Customer. All costs arising from actions taken following a radioactivity alarm shall also be borne by the Customer. The right of IAG to assert further rights in accordance with § 4 clause 1 remains unaffected.
- (7) Following the detection of deviations from the agreed specifications, IAG shall be entitled to seize subsequent deliveries of waste material in order to test it with regard to the agreed specifications. All costs arising from such seizures and tests, in particular the analysis expenses and the handling charges of the landfill operator, shall be borne by the Customer.
- (8) If the Waste Disposal Contract covers partial deliveries, the Customer must contact IAG in advance to coordinate the delivery schedule and quantities. The Customer must inform IAG of the expected amounts of waste material incurred on a continuous basis by the Customer that are to be delivered in partial shipments of roughly equal size to IAG.
- (9) The Customer is obliged to inform all third parties it contracted in connection with the disposal of the waste material of the above requirements, and shall guarantee their compliance with these General Business Terms and Conditions.

#### **§ 4 Disposal**

- (1) IAG's obligation to dispose of waste material only applies to waste material that conforms to the agreed specifications; § 3 clause 4 applies accordingly. For waste material that meets these specifications, IAG shall fulfil the disposal obligations of the Customer on his behalf (§ 22 clause 1 German Recycling Act (KrWG)). If the waste material does not meet these specifications, IAG shall not be obliged to accept it for disposal. If, in the case



of non-conforming waste material, IAG is legally obliged to dispose of it, IAG shall be entitled to demand lawful disposal of the waste material by the Customer, and to claim compensation for loss of income. Alternatively, IAG may dispose of the non-conforming waste material itself. In the latter case, IAG shall not only be entitled to payment of the agreed charge, but also to compensation for additional expenses that it incurred in relation to the disposal of the non-conforming waste material. Further rights of IAG, in particular the right to claim compensation for damages and to impose contractual penalties, shall remain unaffected.

- (2) IAG is not obliged to dispose of the waste material at its own disposal plants, but is entitled to recycle or dispose of it through waste treatment facilities operated by third parties.
- (3) The Customer shall not be entitled to demand waste treatment that goes beyond what is required by law, unless this has been expressly agreed between the parties.
- (4) IAG shall be entitled to put delivered waste material consignments into interim storage prior to final disposal.

## **§ 5 Rejection of waste material**

Without prejudice to § 3 clause 6, IAG may only reject waste material if

- (a) its disposal is prohibited by law or by a decision of the relevant state authorities;
- (b) the Declaration of Acceptance must be withdrawn following an inspection of the landfill site;
- (c) the Customer failed to meet his obligations as set out in § 4, and if the delivered waste material does not conform to the requirements of the waste disposal certificate as regards type, properties, pollutant load, packaging or labelling;
- (d) the Customer is in default; in such a case, IAG shall be entitled to reject any further deliveries of waste material until all monies due including interest on arrears, collection charges and legal fees have been paid in full;
- (e) the operation of the Ihlenberg landfill site is disrupted due to force majeure, e.g. war, industrial disputes, strikes, lockouts, etc.;
- (f) there are other important grounds for refusal.



## **§ 6 Prices and payment**

- (1) The agreed prices shall be valid for the time period specified in the contract or for the duration of the contract and are subject to VAT at the applicable rate. If no fixed prices have been agreed, the applicable charges and fees of IAG apply.
- (2) If there are verifiable, extraordinary additional costs arising to IAG during the contract period, for instance due to changes in the law, new requirements by the authorities and/or increased charges, IAG shall be entitled to revise its prices accordingly, as from the time of the change that led to the revision.
- (3) The payable amounts are calculated on the basis of the weight determined by the calibrated, not publically accessible scales of IAG.
- (4) Any costs arising to IAG from the delivery of waste material that does not conform to the contractual specifications, in particular if waste material has not properly separated, shall be borne by the Customer (see also § 3).
- (5) Unless agreed otherwise, IAG shall issue weekly invoices for its services. Invoices are payable in full within 14 days from the date of issue. Should the Customer be in default, IAG shall be entitled to compensation in the form of interest on arrears. The interest rate shall be minimum 8 percentage points above the base rate of the European Central Bank. IAG shall further be entitled to reject acceptance of waste material deliveries to the Ihlenberg site until all outstanding amounts are paid in full.

## **§ 7 Force majeure**

- (1) If force majeure prevents the Customer from making deliveries of waste material of the agreed specifications and in the agreed quantities, or if force majeure prevents IAG to fulfil its contractual obligations, the party affected by force majeure shall be temporarily relieved from its obligations under the contract without being obliged to pay damages to the other party.
- (2) Force majeure includes war, industrial disputes, strikes and lockouts.
- (3) Should IAG, due to no fault of its own, be no longer able to properly dispose of the Customer's waste material at the disposal facility that IAG verifiably intended to use for this purpose, IAG shall only be obliged to provide alternative facilities for disposal as far as this is economically reasonable. This obligation on the part of IAG ceases, if the costs of



disposal at the alternative facility exceed the agreed prices charged under the contract by more than 10%.

## **§ 8 Liability**

- (1) If IAG is in breach of a contractual or non-contractual duty, it shall be liable in accordance with the relevant statutory regulations and these General Business Terms and Conditions.
- (2) IAG shall only be liable for damage caused by malicious intent or gross negligence, and for damage resulting from the destruction of life or personal injury for which IAG has been found responsible. IAG shall also be liable for damage arising from its failure to meet an essential contractual obligation (cardinal obligation) or a warranty obligation, and in cases where IAG has fraudulently concealed a defect. In this context, a cardinal obligation is an obligation of IAG under the contract, which principally enables the fulfilment and proper enforcement of the contract, the breach of which would jeopardise the purpose of the contract, and on which the contractual partner can trust for compliance.
- (3) Should IAG fail to meet a cardinal obligation due to ordinary negligence, the liability of IAG shall be limited to what is considered typical foreseeable damage.
- (4) The liability of IAG under the Product Liability Act remains unaffected.
- (5) The Customer is obliged to meet its contractual obligations under the Waste Disposal Contract and must comply with the provisions of these General Business Terms and Conditions. The Customer shall be liable for damage caused directly or indirectly by the delivery of waste material that does not meet the contractual specifications, by incorrect or incomplete information regarding the properties of the waste material as set out in § 3, by breach of contract or non-compliance with the provisions in these General Business Terms and Conditions or by failure to follow instructions of IAG staff. In this context, damage includes lost earnings due to loss of opportunity to enter into contracts with other parties, all costs in connection with the proper disposal of the waste material, the restoration and decontamination of sites polluted by the waste material, fees and fines charged by the authorities, as well as compensation of third parties for damage to property or for personal injury. The Customer shall indemnify IAG against any claims for damages by third parties arising in connection with a breach of contract on the part of the Customer.



## **§ 9 Set-off and retention of title**

The Customer shall not be entitled to set off his liabilities against counter-claims, or to exercise a retention of title, unless the claim of the Customer is undisputed or has been found final and binding.

## **§ 10 Deterioration of Customer's financial situation**

- (1) Should IAG become aware of facts that put the ability of the Customer to meet its financial obligations in doubt, IAG shall be entitled to demand payment of the full contractual amount due, or to request a surety, before accepting any further waste material deliveries. Should the Customer fail to make the payment or to provide the surety within a reasonable time, IAG shall be entitled to withdraw from the contract.
- (2) Facts putting the Customer's ability to pay in question are, in particular, long-term attachments of assets and other compulsory enforcement measures, or the opening of insolvency proceedings.

## **§ 11 Confidentiality and data protection**

- (1) All information concerning the operations and the business of IAG shall be treated as confidential by the Customer. The Customer shall refrain from sharing such information with third parties, unless IAG has agreed to this in advance and in writing. Not subject to confidentiality is information about IAG
  - that was in the possession of the Customer prior to signing the Waste Disposal Contract with IAG, or that has been obtained lawfully from a third party without breaching confidentiality;
  - that, at the time of signing of the Waste Disposal Contract, was in the public domain, or entered the public domain during the contractual period without a breach of contract;
  - that, by law or by court decision, must be submitted to the authorities. As far as this is possible and lawful, the Customer shall notify IAG in advance of such a court decision to give IAG the opportunity to take legal action against the decision.
- (2) In accordance with article 6 paragraph 1 b) of the General Data Protection Regulation GDPR, IAG only processes data obtained from the Customer where this is necessary for



the submission of an offer based on a request by the Customer, or for the fulfilment of IAG's obligations under a contract. The data protection policy document of IAG is available on request.

## **§ 12 Final provisions**

- (1) Legally relevant declarations and notifications by the Customer concerning the Waste Disposal Agreement (e.g. setting of grace period, notification of defect, termination of contract or request of price reduction) must be made in writing (e.g. by letter, e-mail or fax). IAG reserves the right to insist that such declarations and notifications meet formal requirements as laid down in law, in particular where there are doubts regarding the authorisation of the person submitting the declaration or notification.
- (2) The decision or declaration that one or more of the clauses of these General Business Terms and Conditions is null and void shall have no effect on the remaining clauses.
- (3) If the Customer is a registered trader as defined by the German Commercial Code, a legal entity under public law, or a special asset governed by public law, the place of performance for all contractual duties is the IAG Ihlenberg site at Selmsdorf, Germany.
- (4) These General Business Terms and Conditions as well as all contracts and legal relationships between IAG and the Customer are governed by German law under exclusion of the UN Convention on the International Sale of Movable Goods (CISG).
- (5) If the Customer is a registered trader as defined by the German Commercial Code, a legal entity under public law, or a special asset governed by public law, any disputes arising in relation to a Waste Disposal Contract between IAG and the Customer, or from these General Business Terms and Conditions, shall be settled before a competent court at Lübeck, Germany.