

# Purchasing Conditions for Waste Disposal Services

As at: 01.05.2017

## 1. Scope, Constituent Parts of the Order

- 1.1 The following waste disposal conditions shall apply to the disposal of all waste, special waste and waste oils of INEOS Solvents Germany GmbH (the Client) and/or its associated Companies within the meaning of § 15 AktG. (Joint Stock Companies Law) together with its subsidiary companies.
- 1.2 Any deviating general commercial conditions of the Supplier will only become a constituent part of the contract if the Client acknowledges these expressly in writing.
- 1.3 The following shall become constituent parts of the order and in the event of inconsistencies apply with subsequent ranking after these in the following order:
  - 1.3.1 The provisions of the letter conveying the order together with the description of the service (specifications) including any additional preliminary technical remarks plus the associated drawings and if applicable the record of the proceedings.
  - 1.3.2 The "Purchasing conditions for waste disposal services"
  - 1.3.3 The safety provisions in force in each case for the place of the execution of the order in their latest version.

## 2. Offers, Placing of Orders, Documents

- 2.1 Waste disposal offers, including any necessary preliminary work, such as sampling and analyses, are – unless agreed otherwise – free of charge to the Client. Any deviations from the text of the waste disposal request are to be indicated as a separate item.
- 2.2 Waste disposal orders together with any modifications and expansions are required to be in written form. Delivery through a computer fax or email without a signature is sufficient here.  
Any errors or ambiguities in the waste disposal order are to be indicated by the Supplier.
- 2.3 All documents which have been placed by the Client at the disposal of the Offerer and/or the Supplier for the purposes of developing the offer shall remain the property of the Client and are to be returned to him without question once the contract has been executed, or if an order is not placed immediately. The content of such documents is to be treated as a trade secret and is not to be made available or known to third parties, nor is it to be used by the Offerer or Supplier himself for his own purposes.
- 2.4 The Supplier must ensure that offers and/or information which are stored on EDP data carriers and are intended for the Client are free from harmful programmes. The Supplier is obliged to protect against viruses, check programmes and data before these are transmitted electronically to the Client using an anti-virus software which corresponds in each case to the most up-to-date developments in virus protection and therefore corresponds to the Client's level of security. Irrespective of any on-going claims, the Client is entitled to hold the Supplier responsible for any damages and costs arising through the non-observance of the above obligations.

## 3. Prices

- 3.1 The agreed prices are fixed prices for the period of the execution of the order and are understood to be plus the statutory turnover tax valid in each case.
- 3.2 Unless agreed otherwise, falling short of or exceeding the quantity shall not justify the subsequent modification of the unit prices. § 2 Item 3 VOB Part B does not apply. Any additional charges for impediments - for whatever reason – are not allowed.
- 3.3 Additional services over and beyond the order placed are only paid for if these are ordered by the Client in writing prior to execution. The unit rates must correspond to the pricing of the main order.

## 4. Waste disposal contract, Compliance with Provisions, Approvals

- 4.1 The waste disposal contract shall come into force when the Client accepts the Supplier's waste disposal offer, or when the Supplier accepts the written waste disposal order from the Client.
- 4.2 In concluding the waste disposal contract the Supplier undertakes to dispose of the waste, special waste and waste oils which are the subject matter of the contract properly and while adhering to all relevant public-law regulations, in particular those of the Recycling and Waste Management Act (KrW-/AbfG) and the implementation regulations issued in this connection, the Chemicals Act, the Waste Oil Order, and the Water Management Act. In addition to this, the Supplier shall assume responsibility for all waste disposal measures instigated by him being carried out taking into account
  - the relevant laws, orders and other regulations relating to industrial safety, environmental protection, accident prevention together with the generally acknowledged rules relating to safety and occupational medicine,
  - the acknowledged rules of technology,
  - the general obligation relating to traffic safety together with any building, industrial and traffic law regulations, in each case in the version in force.
- 4.3 The Supplier shall guarantee,
  - as Transporter to be the holder of a valid official permit necessary in accordance with §§ 49 f. KrW-/AbfG and/or § 5a AbfG together with §§ 49 f., 64

KrW-/AbfG, unless the disclaimer conditions of § 51 together with § 52 KrW-/AbfG exist and/or

- as Operator of the waste disposal plant concerned to be the holder of a necessary erection and operating permit within the meaning of § 31 KrW-/AbfG (if necessary together with § 4 BImSchG (Federal Law on Immissions)), and, if required, an exemption certificate as per § 27 Section 2 KrW-/AbfG.

The Client is entitled to request proof of this. The expiry of a permit is to be notified to him immediately in writing.

- 4.4 If, within the scope of the execution of the order, hazardous goods of the Client are transported by the Supplier, the Client is the Client of the Sender within the meaning of the GGVS/ADR. The Supplier must ensure that all provisions of the Hazardous Goods Act, in particular those contained in the GGVS/ADR, are complied with during the transport of hazardous goods (e.g. suitable packaging, loading, transport, labelling, transport documents). The Client shall inform the Supplier about the hazardous material, providing information such as class, item, letter, UN-No. relating to the compliance with § 7 of the GGVS. Should this information not be to hand, the Supplier is obliged to request this information from the Client.

## 5. Execution of the Waste Disposal Contract

- 5.1 The Supplier shall undertake to comply with the relevant provisions for the execution of the waste disposal contract and to follow the necessary procedure relating to consignment notes. Merely transferring to intermediate storage facilities is expressly prohibited.
- 5.2 Waste oils within the meaning of § 5 a Section 1 AbfG together with § 64 KrW-/AbfG and/or the statutory provisions following on from § 5 a AbfG are to be disposed of with the corresponding application of the above Item 5.1 in accordance with the Recycling and Waste Management Act and the Waste Oil Order. Prior to each shipment of waste oils the Supplier has in particular also to take a sample as stipulated in accordance with § 5 of the Waste Oils Order including a reserve sample.

## 6. Supplier Representatives

- 6.1 The Supplier has to nominate in agreement with the Client a qualified person as a responsible representative. This representative must always be present at the work site during working hours and be entitled to receive instructions.
- 6.2 In the event that they are unable to perform these duties, a correspondingly suitable and qualified substitute is to be appointed.

## 7. Waste Disposal Sub-contractors

- 7.1 The Supplier may only allow the waste disposal contract to be carried out in whole or in part by a waste disposal sub-contractor with the prior written agreement of the Client. This sub-contractor must for his part be suitable, reliable and the holder of the permits referred to in Item 4.3. In addition to this, the insurance protection cover specified in Item 13.2 must also exist with respect to the waste disposal sub-contractor. The agreement of the Client shall limit neither the obligations of the Supplier nor shall it constitute any rights for the waste disposal sub-contractor.
- 7.2 The Supplier has to impose on each waste disposal sub-contractor the obligations contained in these conditions without restriction.
- 7.3 The Supplier shall be obliged to make good all damages and to bear all costs resulting from the infringement of these obligations.

## 8. Safety at Work, Rules of Conduct, Supplier Damage Compensation Claims

- 8.1 The Supplier is – even with regard to the subcontractor employed by him – responsible for adhering to all provisions relating to industrial safety, and in particular the conditions referred to in Item 10.1 of the official instructions/additional provisions and any internal safety provisions of the Client. In addition to this, the Supplier is obliged to guarantee compliance with the General Equality of Treatment Act (AGG) by its employees together with any subcontractors employed. The contractor is obligated to guarantee that both they and their sub-contractors comply with the guidelines from the Posted Workers Directive (AEntG) and the Minimum Wage Act (MiLoG). In the event of significant violations, the client is entitled to immediately terminate the contract. Furthermore, the contractor must compensate for any damage that arises through a violation of this obligation and must release the client of all claims due to the MiLoG or the AEntG.
- 8.2 The Supplier is obliged to obtain information from the works superintendent before the start of work concerning the rules of conduct applicable in each case for the site, the Client's areas and the areas of operation and to notify his vicarious agents of these.
- 8.3 IT and automation security:

The Supplier has to adhere to the procedural rule VA-Tech-4.03 including the contained regulations for the handling of its IT-systems. It is generally prohibited

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to connect foreign IT systems or devices to INEOS IT-systems or networks. Likewise no work on/ with INEOS IT-systems must be executed without proper authority. Each operation requires suitable authority by the client of INEOS Solvents, who has assigned and is responsible for the work to be carried out.

- 8.4 If the Supplier, his subcontractors, one of his employees or anyone else employed suffers any damages of whatever nature and for whatever reason on the Client's site or in the Client's areas and/or the areas of operation, then the client is only liable if they acted with gross negligence or intention or claims against them arise due to a loss of life, bodily injury or health problems or it deals with product liability claims or they have violated a significant contract obligation, this means a typical and basic obligation for the contract, and damages have occurred that are typically predictable through the contract. The contractor must immediately inform the client of any accidents that occur.
- 8.5 The aforementioned limitation of liability applies to the same extent for the vicarious agents and officers of the Client.

### **9. Right of Inspection**

- 9.1 The Client has the right to check at any time that the public-law together with the contractual obligations have been adhered to by the Supplier or the waste disposal sub-contractor, in particular (but not exclusively) by inspecting the supporting documents or approval notices.
- 9.2 If the work carried out is deemed unsatisfactory, the Client can intervene to rectify the project. The agreed deadlines and the exclusive responsibility of the Supplier for the proper fulfilment of the order remain unaffected by this, unless an intervention on the part of the Client is the cause of the delay to the deadline or a defect.

### **10. Deadlines**

- 10.1 For the Supplier who takes over the transport exclusively, the waste disposal times and deadlines indicated in the waste disposal order shall be adhered to and shall be binding and unconditional. The Supplier is not entitled to carry out a waste disposal early without the prior written agreement of the Client.
- 10.2 Interruptions together with delays to the proper disposal of the waste, special waste and waste oils which are the subject matter of the contract must be notified immediately by the Supplier to the Client.
- 10.3 If the Supplier is responsible for the interruption or delay, the Client shall be entitled without prejudice to on-going claims, to arrange for the waste disposal to be carried out on time and properly by a third party company instead after an appropriate extension period fixed by him has passed without success. Any additional costs resulting from this are to be borne by the Supplier.
- 10.4 If the Supplier is unable to justify the obstacle to the service, the Client has the right, after an appropriate extension period set after the obstacle to the service has been removed, to withdraw from the contract without compensation, if the delay proves to be unreasonable to him.

### **11. Responsibility, Declaration**

- 11.1 Along with the takeover by the Supplier or the waste disposal sub-contractor of the waste, special waste and waste oils which are the subject matter of the contract, ownership, possession, risk, the traffic safety obligation and the public-law liability for the waste disposal in accordance with the regulations are transferred to the Client.
- 11.2 If the waste, special waste and waste oils to be disposed of are declared exclusively by the Client, the responsibility for the correctness of the declaration lies with him. Losses and damages which arise from a subsequent modification of this declaration by the Supplier or the waste disposal sub-contractor shall be the responsibility of the Supplier without restriction.
- If the Supplier or the waste disposal sub-contractor have collaborated on this declaration, the Supplier shall be responsible in addition to the waste disposal sub-contractor according to his part in the blame and/or that of the waste disposal sub-contractor for all losses and damages which arise from a false declaration, a failure to notify changes in good time or from the condition of the waste materials to be disposed of.

### **12. Warranty**

- 12.1 The Supplier shall undertake a guarantee that the service provided by him or the service performed by him is free of fault and that it is in the condition agreed in the contract.
- 12.2 For the period of the warranty, the statutory provisions shall apply unless any other agreement has been reached. For services provided within the scope of the warranty, the warranty period shall start to run afresh.
- 12.3 In the event of a defective service, the Client has the option of requesting that the defect be remedied or a new service be provided. The Supplier shall bear all costs arising in connection with the defect, e.g. for the detection of defects, tasks, development, transport and installation. In urgent cases or after a defect elimination period fixed by the Client has expired, the latter shall be entitled to appoint another company to perform the task subsequently at the Supplier's expense. The Client shall reserve the right to claim further statutory rights.

### **13. Liability, Third Party Liability Insurance**

- 13.1 The Supplier shall be obliged to make good any losses and damages with respect to the Client and to release him from third party claims which are based on the Supplier or the waste disposal sub-contractor not adhering, not adhering fully or not adhering in good time, to his existing contractual obligations in accordance with the waste disposal contract, including these waste disposal conditions, his traffic safety obligation or his public-law liability. This does not apply if the Supplier proves that neither he nor the waste disposal sub-contractor bears any of the blame.
- 13.2 The Supplier shall be obliged to take out and maintain at least a third party liability insurance with a minimum level of cover amounting to EURO 2.5 million for each loss to cover the risks associated with the disposal of waste, special waste and waste oils, including the third party liability insurance because of the risk of water damage and damages caused by environmental effects. The Client is entitled at any time to demand proof of these.

### **14. Invoicing, Payment, Offsetting**

- 14.1 Invoices are to be submitted separately for each order, giving the Client's order number comprehensibly and are to be sent to the billing address given in the order. Turnover tax is to be indicated separately in the invoices. The Client is entitled to send back incomplete invoices for completion and/or correction.
- 14.2 Payment terms shall start from the day on which the invoice complying with contract, including the checkable documents, reaches the Client. In the event of the invoice being returned for a reason which cannot be justified by the Client, payment terms shall not start before the amended invoice has been received.
- 14.3 The payment is made – unless agreed otherwise - with a 3 % discount deducted from the bill if payment is made within 21 days or – according to the Client's wishes – net within 45 days after receipt of the invoice, presentation of all documents which may legally be required (e.g. waste dispatch note) together with the contractual fulfilment of the waste disposal obligation.
- 14.4 The client is entitled to offset their claims or retain funds because of such claims.

### **15. Data storage, Publicity**

- 15.1 The Client has the right to process data relating to the Supplier or his vicarious agents connected with the business relationship, within the meaning of the Federal Data Protection Act.
- 15.2 The waste disposal contract may not be used for publicity purposes.

### **16. Place of Jurisdiction, Applicable Law**

- 16.1 The exclusive place of jurisdiction shall be Kleve. For orders which are placed by companies associated with INEOS Solvents Germany GmbH within the meaning of § 15 AktG, the exclusive place of jurisdiction shall be the registered office of the associated company concerned.
- 16.2 The Law of the Federal Republic of Germany shall apply to the exclusion of German private international law; in particular the UN Convention on Contracts for the International Sales of Goods of 11.04.1980 shall not apply.

### **17. Partial Invalidity**

- 17.1 Should individual clauses of these conditions be or become in full or in part legally invalid, this shall not affect the validity of the remaining provisions together with any other contract concluded.